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EARL WARREN: FELLOW CONSTITUTIONAL OFFICERS

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Earl Warren Oral History Project

EARL WARREN: FELLOW CONSTITUTIONAL OFFICERS

Edmund G. Brown, Sr.	*The Governor's Lawyer*
Robert W. Kenny	*California Attorney General and the 1946 Gubernatorial Campaign*
Thomas H. Kuchel	*California State Controller*

Interviews Conducted by
Amelia Fry
in 1969, 1971, 1972, and 1975

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PREFACE

The Earl Warren Oral History Project, a special project of the Regional Oral History Office, was inaugurated in 1969 to produce tape-recorded interviews with persons prominent in the arenas of politics, governmental administration, and criminal justice during the Warren Era in California. Focusing on the years 1925-1953, the interviews were designed not only to document the life of Chief Justice Warren but to gain new information on the social and political changes of a state in the throes of a depression, then a war, then a postwar boom.

An effort was made to document the most significant events and trends by interviews with key participants who spoke from diverse vantage points. Most were queried on the one or two topics in which they were primarily involved; a few interviewees with special continuity and breadth of experience were asked to discuss a multiplicity of subjects. While the cut-off date of the period studied was October 1953, Earl Warren's departure for the United States Supreme Court, there was no attempt to end an interview perfunctorily when the narrator's account had to go beyond that date in order to complete the topic.

The interviews have stimulated the deposit of Warreniana in the form of papers from friends, aides, and the opposition; government documents; old movie newsreels; video tapes; and photographs. This Earl Warren collection is being added to The Bancroft Library's extensive holdings on twentieth century California politics and history.

The project has been financed by four outright grants from the National Endowment for the Humanities, a one year grant from the California State Legislature through the California Heritage Preservation Commission, and by gifts from local donors which were matched by the Endowment. Contributors include the former law clerks of Chief Justice Earl Warren, the Cortez Society, many long-time supporters of "the Chief," and friends and colleagues of some of the major memoirists in the project. The Roscoe and Margaret Oakes Foundation and the San Francisco Foundation have jointly sponsored the Northern California Negro Political History Series, a unit of the Earl Warren Project.

Particular thanks are due the Friends of The Bancroft Library who were instrumental in raising local funds for matching, who served as custodian for all such funds, and who then supplemented from their own treasury all local contributions on a one-dollar-for-every-three dollars basis.

The Regional Oral History Office was established to tape record autobiographical interviews with persons prominent in the history of California and the West. The Office is under the administrative supervision of James D. Hart, Director of The Bancroft Library.

Amelia R. Fry, Director
Earl Warren Oral History Project

Willa K. Baum, Department Head
Regional Oral History Office

30 June 1976
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* Deceased during the term of the project.

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Edmund G. Brown, Sr.

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Earl Warren Oral History Project

Edmund G. Brown, Sr.

THE GOVERNOR'S LAWYER

An Interview Conducted by
Amelia Fry

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INTERVIEW HISTORY

Interview Sessions: Session I - October 17, 1969, held in the law office of Edmund G. "Pat" Brown in the firm of Ball, Hunt, Hart, Brown & Baerwitz in Beverly Hills, California.

Session II - March 20, 1975, in the Conference Room of The Bancroft Library, at the University of California, Berkeley.

Session III - April 7, 1975, again in his law office in Beverly Hills.

Those present for sessions: Edmund G. Brown and the interviewer.

The Interview: When the first session was held, former governor "Pat" Brown spoke as one who had been a statewide officer in the Earl Warren administration; the central subject was Attorney General and Governor Warren as seen by former Attorney General Brown. The other two sessions are Pat Brown's perspective on his own criminal justice career as district attorney of San Francisco 1943 to 1951 and state attorney general 1951 to 1959. These two sessions were recorded nearly six years after the first. Taken as a whole, this interview covers the law enforcement aspect of the much longer series of tapings currently underway to document Brown's entire life.

In that first session Pat Brown had been out of the governor's chair for two years and nine months and had settled into the Beverly Hills law firm of Ball, Hunt, Hart, Brown & Baerwitz as a partner. Although the session took place in his inner law office where couch and chairs invited relaxation and concentration, such was not to be. Telephone interruptions punctuated the interview so frequently that later the transcriber omitted mention of them in an effort to preserve some continuity of the interview for the reader. The continuity of the governor's thoughts seemed not to be affected, however. Frequently after a call he would pick up the interrupted sentence without a cue, hardly bothering to take a breath between events of that day in 1969 and

those twenty years earlier. Moreover, he would simultaneously assign tasks to his secretary, make a decision on the telephone about a case, and tape record on Earl Warren. He is one of those exceptional persons who go through each day of their lives in a state of only slightly modified ubiquity. One wonders whether this is an innate talent that enabled him to win campaigns and administer public offices, or whether he developed it in self defense, in answer to the complex demands of running the state's highest executive position. However, between calls Pat Brown managed to portray the almost master-student regard which he, a Democrat, held for Earl Warren, Republican; it blossomed later into a close friendship expressed by hunting trips, visiting on both coasts, and a Mediterranean cruise in a yacht chartered by San Francisco Democratic party fund raiser Ben Swig.

After about forty-five minutes another appointment arrived, Brown apologized for not having an opportunity to take the interviewer to lunch (a courtesy hardly expected anyway), and the session was over.

The subsequent session, more than five years later, actually began the current series on his own memoir* and bridged the two projects well. This time the former governor accepted our invitation to record in Berkeley at The Bancroft Library's conference room--away from telephones. Sequestered from the distractions of his office, he and the interviewer sat at a corner of the long table; Brown was relaxed and poured forth his reminiscences with almost a vacation mood. Afterwards the Director of The Bancroft Library, Dr. James D. Hart, led Brown on a tour of the archives where eight years before as the retiring governor he had deposited his papers. At the end of the day he was taken to the Chancellor's residence to attend the annual banquet of the Berkeley Fellows.

The third session was set up the following month in his Beverly Hills law office again, with a promise that all phone calls would be held. This was done, with only a couple of exceptions. We continued the topics of the previous session: water resources, politics, criminal justice issues, and the Democrats in their lean years.

In all three sessions Pat Brown was an easy, open, animated talker who punctuated his narration with chuckles of amusement, often at his own foibles. He delivered his answers too efficiently at times, so that it behooved us to return to the topic later and mop up missed points. As a person who relishes almost any sort of human exchange, he was a willing, even an enthusiastic interviewee. He likes people, he collects friends ardently, and it shows.

---

*This is the Governors Goodwin Knight-Edmund G. Brown Era Documentation Project, covering the period 1953 through 1966 in California government and politics. Approximately sixty persons are being interviewed, including the personal memoir of Brown.

Therein no doubt lay one of his great advantages when running for office. It is a trait that also results in an interview that presents more than the usual glimpse of the narrator's personality.

The transcript, with questions and ambiguities noted here and there, was sent to him for his review July 29, 1975. His usual pace in Beverly Hills and his numerous trips out of state delayed his looking it over until he took a longer trip--to the Middle East. In late January, 1976, with transcript in brief case, he took off across the Pacific. On beaches and in hotels he went over the pages clarifying his syntax and answering our questions. After he returned at the end of February, he asked to re-read it once again, then turned it over for final typing. That was not done until we had taped our way past the attorney general period in the new project on the history of his administration, in the event that more information might come up that should be attached to this transcript.

This, then, serves as both a backward glance at Earl Warren and anticipates material that will soon be available on Pat Brown's own era of state administration.

Amelia R. Fry
Interviewer-Editor

13 December 1978
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I EARL WARREN

[Interview 1: October 17, 1969]
[begin tape 1, side 1]

Law Enforcement

Brown: Do you want me to just talk, or do you want to ask questions?

Fry: Well, I may ask some questions, but you said that you had definite things in mind that you wanted to talk about.

Brown: Well, let me say a word about Earl Warren. I was in politics almost from the day I was graduated from law school, and of course I watched the political scene in California from 1927 until the present time, October 1969. I can't remember hearing very much about Earl Warren in the early thirties, during the period of the governorship of Rolph and Merriam. I do remember that he was a district attorney of Alameda County, and I remember very well the fact that a nationwide report on the administration of criminal justice rated Earl Warren's as the number one district attorney's office of the entire land.

Fry: You're talking about Raymond Moley's book?

Brown: Raymond Moley's survey, yes.* And I remember how we had the best in Alameda County, and right across the bay in San Francisco County being the worst; this really influenced me to run for district attorney of San Francisco. It offended my sensibilities to think that in Alameda County they would have a great district attorney's office, and in San Francisco, where they really had greater problems and a more cosmopolitan population at that time, we would have such a bad district attorney's office. The district attorney's office in San Francisco was not a corrupt one, however. [Interruption]

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*Moley, Raymond, Politics and Criminal Prosecution, 1929; New York: Minton, Balch and Company; also article, New York Times, August 30, 1931.

Brown: Earl Warren, I might say, as district attorney fully corroborated the statements of Ray Moley because he really conducted a great office, and the men that he had with him were very efficient prosecutors. They were fair prosecutors. There were some cases, such as the killing of a person on the Point Lobos, a murder growing out of a ship strike, that Governor Olson later felt was an unfair prosecution. I have no way of knowing whether it was because it was settled long before I took office.

Fry: You were an attorney in San Francisco during this period, isn't that right?

Brown: I was a practicing attorney in San Francisco, active in [Governor Clement C.] Young's campaign. First I was in Republican politics, up to 1932; from 1927 to 1932 I was a Republican.

Fry: Or was it '34?

Brown: Yes, '34 that I changed. It was 1934 that I changed my registration.

Fry: Why did you change?

Brown: I changed because I thought that the Democratic Party more closely represented my philosophy of government than the Republican Party. I thought the Democratic Party wanted to do things for people and felt that the government had a part in it, whereas the Republican Party felt that the way to do it was completely through the private enterprise system and that government should be merely a policeman. The Democratic Party felt that government should aid and assist.

Fry: So the New Deal, then, was your turning point?

Brown: Franklin Roosevelt's speeches impressed me very much. I listened to his "fireside chats," and I would say that I was converted. I might say, too, that it was a difficult thing for me to change, because my father had been a part of the Republican party, part of the Tom [Thomas R.] Finn* machine, and the Republican Party had offered me an assistant U.S. attorneyship at one time. I had been fairly active in the Young Republicans; it was something like changing my religion. Mat [Mathew O.] Tobriner, who was later on the state supreme court, was also a Republican, and he and I used to talk

---

*Sheriff of San Francisco in 1925.

Brown: politics. We found an affinity of mind, and the two of us both agreed to change at or about the same time. I would say that Mat Tobriner influenced me very much.

I watched Earl Warren as district attorney. I watched him as the chairman of the Republican Party, and I watched him in the campaign against Governor [Culbert L.] Olson. Matter of fact, I observed him when Olson ran against Merriam and Warren ran against the several Democrats for the attorney generalship, and I remember Warren winning both party nominations at that time, back in 1938.

I can't say that I particularly liked Earl Warren at that time. I felt that he was an efficient prosecutor, but a rather grim and ambitious one, and that some of the statements he made were not always fair.

Then I remember his quarrels with Governor Olson when he was his attorney general, and I felt, very frankly, that Olson was a good man who had made very bad appointments but himself had the right philosophy. And I thought Earl Warren's attacks upon him as his attorney general were very unfair. I supported Olson against Warren, and did so vehemently and with sincerity.

Fry: In the 1942 governor's race?

Brown: In '42. Four years later in 1946, when Bob Kenny ran against Warren, I was a candidate for attorney general on the Democratic ticket against Fred N. Howser, who was the Republican candidate, and of course I supported Bob Kenny at that time for governor. But Bob Kenny had a great respect for Earl Warren, and I could never understand why Kenny, thinking Warren was so good, would ever be a candidate against him. I hope one of these days Bob Kenny will tell these records why.

At any rate, I was then district attorney, and I learned a great deal from the Alameda County district attorney's office. The district attorney at that time was a man named Ralph Hoyt, who died some time ago. I went over and talked to them about the way to run a district attorney's office. The result was that I brought a great many of their innovations into the San Francisco district attorney's office, and I think they went a long way in winning my subsequent election as attorney general because it was generally regarded that I ran a good district attorney's office.

Brown: In 1950, I was elected attorney general and I had met Earl Warren at district attorneys' conventions which he attended. He attended every time that there was a district attorneys' convention in California. And every district attorney looked forward to seeing Governor Warren come. Even in 1948, when he was a candidate for the vice-presidency, I remember him making a special trip to attend the district attorney's convention at Lake Tahoe. This endeared him to the chief prosecutors of all the fifty-eight counties of the state, and I must say that at every one of these meetings, with his wife Nina, he made a great impression. He was a friendly, personable fellow and always talked not about tough questions of the law, but about his friendliness and the things that he regarded as important.

Fry: Did his work with the district attorneys' organization and the police chiefs' organization and so forth give him a kind of network of support--

Brown: Oh, yes. He was very close.

Fry: --which he could call on during elections?

Brown: Oh, yes. It was politically very important to him, because he represented the district attorneys, the California Peace Officers Association, and the sheriffs' offices at Sacramento. He was their chief lobbyist. And he always put a very able lawyer to represent the law enforcement viewpoint in the legislature at Sacramento.

As a matter of fact, he did this on his own, without any additional budget support from the district attorneys' association, or the state. This legislative work was part of Alameda County district attorney's office budget.

Fry: Judge Chamberlain was one of those lobbyists, wasn't he? Do you know any others?

Brown: Yes, I think Larry Dayton was up there at one time. Frank Coakley in Alameda County would know the names of all these people. I can't tell you who they were, but they were all men that were experienced in law enforcement. They did a real job up there in Sacramento for law enforcement, number one, and law enforcement--peace officers--generally through the state.

It was good politics, and as a matter of fact, I also became very close to the peace officers' and district

Brown: attorneys' associations and the sheriffs' association. I used to attend all their meetings. When I ran for governor in 1958, they were a bulwark of my support.

The Warren-Brown Confrontation re: Crime Commission, 1951

Brown: One or two interesting things: Right after I was elected attorney general in 1950, Earl Warren called me up--or a few days before the legislative session was to open--and he said, "I've decided that I am going to keep the crime commission for another year." And I said to him,

"Governor Warren, I am the new attorney general, and my responsibility is to enforce all of the law, and I wish you would give me the chance to enforce the law without the aid of any extracurricular body. I think you would resent, if you were attorney general, the governor trespassing upon your constitutional functions."

Fry: This commission had been his defense against Attorney General Howser, hadn't it?

Brown: This had been his defense against Howser. And I said, "I want all the credit or all the blame. I don't want to share it with anybody if I do a good job as attorney general."

And he said, "Pat, I already have it in my message. Will you come up and talk with me?"

So I brought my chief assistant, Bert Levit, with me and we went up to Sacramento. The press were outside waiting to see the new attorney general meet the old governor; he had been elected governor for a third term at that time, and I was a new face on the Sacramento scene.

Earl Warren said to me, "I hope you'll go along with me on this. I understand how you feel, but I really think they haven't completed their work yet."

And I pounded on his desk--not hard--and I said, "Governor, I want the right to do this job that I have taken a solemn oath of office to perform."

He said, "Pat, I understand how you feel about it." He was very conciliatory, but didn't retreat in the slightest

Brown: degree, and finally he said to me, "Now let me just tell you something. I've been around here for a long time and you're new up here. Do you want to walk outside here at the beginning of your career, and have the press--headlines talking to ten million people in this state--say, "Attorney General Breaks With Governor"?

And I said, "Governor, we shall have a crime commission." [Laughter] He was completely disarming. He was very firm but very logical and very friendly. He wanted me to do well.

The Warren-Brown Alliance

Brown: As a matter of fact, in my campaign he studiously avoided supporting Ed Shattuck, who was my opponent in 1950, because Shattuck had treated him rather shabbily after he had been very helpful to Shattuck. Shattuck had written some letters about Warren being a regal character. Matter of fact, Drew Pearson published those letters in his column and they played a big part in my campaign.

One other thing. We didn't think that Jimmy Roosevelt could be elected governor, and we ran big ads in the Los Angeles papers: "Elect Warren and Brown." They tied me up to Warren in the campaign, and it played a great part in my success in being elected.

Fry: Who ran the ads?

Brown: We did--the Brown campaign.

Fry: The Brown people?

Brown: The Brown people. It was William V. O'Connor, my chief Deputy Attorney General, who is now dead, and Prentiss Moore, who is now a Superior Court judge. I think Harry Lerner was my public relations man. One other thing I think is interesting--

Fry: May I ask if Warren Olney III continued as chairman of this crime commission?

Brown: Yes--no, I think Art Sherry became the chairman of the crime commission. No, I brought Art Sherry in with me. Art

Brown: Sherry was a special prosecutor. I made Art Sherry my chief assistant attorney general. That was one of the reasons why I didn't feel that we needed any crime commission. I didn't know Art Sherry earlier, but he had been one of the special prosecutors. A man named Harold Robinson, who was chief investigator for the crime commission, became my chief investigator. So I really took his crime commission and used them in my attorney general's office.

One other important thing is that I had walked up to Earl Warren, and I said, "Mr. Governor, you're now the governor of the state for a third term and I am going to be your lawyer. I'm a Democrat, you're a Republican, but I feel my responsibility is such that you have to rely on the attorney general of California. There must exist a confidential relationship. If you feel that I'm trying to gig you, or trying to make political capital out of my being the attorney general and you being the governor, please disabuse your mind. I want to be your lawyer. The people have elected you to make policy in this state, they've elected me to be your lawyer and the lawyer for all the people. I want your complete confidence. If I can ever be of any service, where it doesn't involve an abuse of my job as attorney general, you let meknow. I'm going to be a Democrat. I intend to do anything I can as attorney general to build a strong Democratic party, but between you and me, I want your confidence and I want you to repose your confidence in me. If I breach it, then you can act as you will."

And I must say this: for a period of three years--and I think Earl Warren will agree with what I say--he had complete confidence in me.

On one occasion the University was having a loyalty oath imposed, and an attack was made on one of his regents on Warren's side by John Francis Neyland--also a regent. This man was voting with Earl Warren and Earl Warren called me and said, "I hope we don't have to disqualify this man--he's working with me." (Warren was fighting the loyalty oath.) The man was a judge in the Superior Court, and there's a provision in the constitution that a man could hold no other position of honor and trust except the judicial position. So the question was whether a member of the board of regents was a "position of honor and trust" as defined in the constitution.

So he asked me, and I said, "Let me see what I can do," and I turned it over to one of my best deputies. He came up

Brown: with an opinion that he could hold both offices, there was no conflict of interest. He could serve both as a regent and as a judge of the superior court. There were other occasions--I can't remember when they were--when Earl Warren would ask me, call me personally, for things that would aid him in the operation of government. He never at any time ever asked me to do anything that would violate my oath of office or to pervert opinion to suit his particular objectives or anything else.

I would go up to see him from time to time when he was governor, and I'll never forget the time that he would take. I could never understand how a busy governor could take me out to the Del Paso Golf Club and we'd sit there for an hour, two hours, two and one-half hours and talk about government in California and what we should do about it.

He left me completely convinced of not only his material integrity but his moral integrity. He was a giant in connection with thinking of things of the people.

He was adroit, too. He wouldn't take on every issue. He was very limited in the number of things that he would fight. When he would fight, he would never quit. For example, he left alone a great many of the lobbyists. He never bothered them; he never fought them publicly. On the other hand, he thought there was need for compulsory state health insurance. Despite the fact that the doctors fought him with a passion, he never retreated on compulsory health insurance.

He fought some of his own friends where they had special privileges. I'll never forget about him telling me how [Charles] Blyth and Company had a monopoly on all bond issues issued by the state, and he compelled the Public Utilities Commission to issue an order calling for bids. How he compelled them, I don't know, but he did.

But he was friendly; he would visit the people who had helped him become governor, but I think that if anybody asked him to do anything because of this friendship, he would have resented it very, very much. I don't think anybody really ever asked Earl Warren to do anything that was wrong, because his attitude just did not permit of it.

I'll never forget him telling me too--he probably doesn't remember this--but he put his hands this way [gesturing and imitating Warren's speech]. He says, "Play them very close to the vest." He put his hands right up like this. He says,

Brown: "Don't let them see your cards. Never let them see your cards. Never lay your cards down and tell people what you're going to do."

He was very sagacious, very careful, and was a magnificent judge of human beings. He didn't always tell people that he didn't like them. He'd tell me about people that he thought were a little--he wouldn't even say it, but it was just the way he'd shake his head. I would know that this person was persona non grata as far as he was concerned.

When I was governor, when I was discussing appointments and whether I should keep this man or that man (because I really tried to follow Warren's rather non-partisan approach to state government as far as the operation of government itself) I had some of his people who wanted to be appointed judges or wanted to be appointed regents. And always, if it were a Republican and a man who had been part of his administration, I would call Warren. And sometimes he would say, "Great," and other times he would say, "Don't do it."

It was a very close personal relationship between Earl Warren and myself which has continued down to the present day.

Fry: Yes, you go duck hunting, don't you? I remember seeing those stories in the newspaper.

Brown: Yes, when I was governor, we'd go duck hunting. We'd go up to his closest personal friend--do you know his closest friend? [Pauses] Wally Lynn is his name. He had a great place to shoot ducks. Every year until last year we went up there and shot ducks together.

Fry: What attorney general did you campaign for in 1938 when Warren ran, or did you take part in the attorney general's campaign at all?

Brown: No, I supported Olson; I spent all my time with Olson in the governor's race. There was a write-in candidate, I think, in that one, and I just couldn't support him. I thought he was kind of a nut.

Fry: He was the Democrat who had lost the Democratic primary.

Brown: Yes, and he had a write-in campaign, and I just couldn't--he was a "Ham and Egger" or something. He was supporting the

Brown: pension boys and I just couldn't go for him.

Fry: Did you continue to work with his crime commission then, when you became attorney general?

Brown: I worked very closely with them, but as a matter of fact, they almost went out of existence when I became attorney general, and it was really only a figure of speech. They really didn't do anything after I took over and started enforcing the law and there was no need for a crime commission. It had accomplished its purpose: Warren didn't like [Attorney General Frederick N.] Howser. He thought Howser was a thief and a crook, and thought he was incompetent, and he reduced his power by setting up the crime commission. Warren was tough, he was a very tough guy. And very humane at times. But if he thought you were wrong, there was no compassion, let me put it that way.

Changes in Warren

Brown: I think he was a very compassionate man, but in law enforcement he would see the victim, and he felt that tough and fair law enforcement was the answer to crime. It's kind of difficult now to understand some of his technical decisions on the Supreme Court, but I must confess that I never thought he would become such a civil libertarian. As district attorney, attorney general, and governor, he was more on the other side of the fence in connection with enforcement of the law.

As a matter of fact, he'd go as far as the letter of the law would permit him to do in certain cases. He didn't tell me this, but Ralph Hoyt told me that he had a graft investigation and a prosecution going over in Alameda County (I can't remember against whom). The law prohibits the disclosure of anything that goes on in the grand jury room by the grand jurors themselves because they want the proceedings of the grand jury to be secret. There may not be an indictment, so you can do an innocent person great harm if the proceedings are open.

Warren would pervert that statute by going outside and reporting himself to the reporters what was going on, for the purpose of building up a public feeling against the defendant. This, of course, is contrary now to the U.S. Supreme Court decision where he held that the newspapers cannot inflame the community against the individual on trial.

Fry: This is the big question. How and at what points did Earl Warren change?

Brown: I think Earl Warren really changed after he saw the lobbyists and the control that they had over the legislature. I've always felt that Warren grew from the days that he was a prosecutor and attorney general, where he was primarily interested in law enforcement. As attorney general, he did not issue any great opinions, or evidence any great liberalism. As he stayed in the governor's office and saw the need and the plight of people, I think he gradually changed. And I would say that I as a Democrat and he as a Republican thought pretty much alike during certainly the last three years of his administration when I was his lawyer. Whether he influenced me or I influenced him, it is hard to say. But I think he was influenced by some of the Democrats that he came in contact with, and the intellectual community. I think he grew intellectually as he moved on throughout these things.

Fry: Who would that have been? Do you mean like Attorney General Robert Kenny?

Brown: I don't know. I think Bob Kenny had an influence on him, although after Bob Kenny was defeated for governor in 1946, he practically passed out of the picture. Warren always respected Bob Kenny. He always respected his mind--as anybody that met Bob Kenny would. Have you talked with him?

Fry: Yes, we spent a long time yesterday.

Brown: Oh, did you? Interesting human being, don't you think so? Sharp mind.

Fry: Yes, very much. We're only just beginning.

Brown: He got me into politics, because when he ran for governor, he asked me to run for attorney general on that so-called package deal.

Fry: Back in--

Brown: 1946. Well, that's about enough for today, and I think you may want to come back later on and follow through on some of these things.

Fry: Yes, I do. You've raised a lot of questions.

Brown: I wish I could take you to lunch, but I just can't do it.

Fry: That's all right, I'm scheduled to pick somebody else's brain at lunch! [Laughs]

Brown: Well, you didn't pick mine very much--I did all the talking--but I thought it would give you the opportunity to get started.

[end tape 1, side 1]

II BROWN AS DISTRICT ATTORNEY

[Interview 2: March 20, 1975]
[begin tape 1, side 1]

The Campaign in San Francisco

[Interview opens with summary of last interview]

Fry: I thought we'd start with #3 there on our agenda to see if you could remember any specific points of excellence or innovation in Warren's district attorney's office that you'd want to bring out, particularly differences between his office and the San Francisco office.

Brown: When I was elected district attorney in 1943, I'd had no prior experience in law enforcement or prosecution. Usually a district attorney is elevated from assistant district attorney to district attorney. But in view of the fact that I was running against an incumbent, I didn't have to run against one of his assistants because of his retirement or death or something like that. So it was a new broom.

I'll never forget our slogan at the district attorney campaign: it was "Elect a new and progressive district attorney." We had that all over the city. We didn't have very much money in that campaign. I put in five thousand dollars of my own money. There was a man by the name of Bill Newsom who put in five thousand and a man by the name of Al Stern who put in five thousand. I think we raised additionally another five thousand.

But I campaigned vigorously from early morning until late at night. I must have shaken hands with a hundred thousand people, because there was an Irishman by the name of Joe Murphy who ran a labor newspaper; he took a liking to me, and he showed me how they used to campaign in the old

Brown: days. It was a person-to-person campaign, which had somewhat gone out of date. But I went back to that. And in a city like San Francisco, you can really campaign that way. You go into a shopping district and you go into every store and every barber shop and every beauty parlor and every restaurant, every supermarket. Everybody you'd see, I'd walk up and Joe Murphy would introduce me and he'd say, "This is Edmund G. "Pat" Brown running for district attorney." Then I would shake hands with them and he'd hand them a card and say, "I hope you'll give him a vote."

He was a very funny Irishman. He had one of the most pleasant smiles you've ever seen. If he saw a woman with a little baby, he'd say, "If this man's elected district attorney on November fourth" (or fifth or whatever the date was), he'd say, "You just take this card into any ice cream store and they'll give you a free ice cream cornucopia." Or if there was a pretty young girl, he'd say, "If Pat Brown is elected, just take this card into any department store and they'll give you a new pair of hose." [Laughs] And then he'd laugh. He was just kidding, you know. They'd say, "Really?" and he'd say, "Well, you know--" [Laughter] It was really funny. I used to laugh and the people used to laugh; we really enjoyed the campaign, although it was hard.

As a matter of fact, I campaigned so hard on one occasion when I was on a fifteen-minute radio talk, I got about eleven minutes down the radio talk and I was so fatigued, I just couldn't finish the speech. So I stopped for a minute, and they were looking at me through the glass door, and they were afraid I couldn't finish. I did finish, but it was a real effort. It occurred at nine o'clock at night after getting up at five o'clock.

Am I doing the right thing? Do you want to talk about any of these things or do you want to get back to Earl Warren? This is really on Earl Warren, isn't it? We can get into mine later on.

Fry: What we want to leave out is material that might be available elsewhere or that you already have in an interview maybe with one of your writers on your book [biography] or something.

Brown: I don't think I went into detail with this.

Fry: Okay. We should give priority to the things in the Warren period and the Warren era that you have not already given us.

Brown: Okay. Now, let's leave that for the minute; we can come back to that at some future date. Warren was governor of California, he was elected in 1942, and I was elected district attorney in 1943. Ralph Hoyt was district attorney of Alameda County. Right after I was elected, I went over to see Ralph Hoyt to talk to him about innovations in the district attorney's office. Ralph Hoyt was a disciple and had been the chief prosecutor for Earl Warren. By the way, you ought to talk to Frank Coakley, Warren's assistant D.A.

Fry: We did.

Brown: You've already talked to Frank Coakley? Because they were very close. Frank Coakley was at war; he was in the navy at this time--'44 and '45, and Ralph Hoyt was the D.A. So I went over to see him.

Adopting Innovations From Warren's D.A. Office

Brown: Now, in San Francisco, when a person was arrested, the criminal complaint that was filed was prepared in San Francisco by the detective bureau. If a uniformed officer made an arrest for a felony, we would turn it over to the detective bureau and they would go down to what they called the bond and warrant clerk's office, and they would prepare the complaint. The district attorney would issue the complaint, based upon the opinion of the detective bureau and a particular detective. There was no legal determination by a lawyer or the assistant district attorney as to whether or not the complaint was justified.

So when I became district attorney, I went over to Alameda County, and they explained to me the way they did it. When they booked a man for a felony arrest, under all circumstances, they would book him on suspicion of having committed a felony. And then the next day, they would go to the district attorney's office and would explain the facts and the evidence, and the district attorney would make the determination as to what the criminal complaint should be. Ralph Hoyt explained this to me, and I put that into effect in San Francisco. We changed the system completely so the police officer couldn't do it. This was a really radical change.

Brown: The chief of police, Charles D'Aule, who was then chief of police, went along with me on it. The good thing about it was that it was a quasi-judicial middle ground to determine whether or not the charges made were justified, so a person was protected from an unjust felony charge by a lawyer. They, of course, had to make a quick judgment.

But there was another reason for the change. The way they'd done it before in San Francisco, the defense attorneys would go to the police officer and plea bargain with the police officer: "If you'll reduce this to a misdemeanor, we'll plead guilty." In my opinion, although I had no evidence of it, it was a source of great corruption because they'd go to the police detective or whoever it was and they'd give him fifty dollars and he'd reduce it to a misdemeanor, and the police officer would feel, "Well, hell, a substantial justice is being done anyway." So that was one of the things that Earl Warren's office advised me to change.

The other thing was that in San Francisco, former D.A. Mat Brady had had no full-time employees; all of his assistant district attorneys had their own private law offices, and they would prosecute during the morning and go to their private law offices in the afternoon. They only had two secretaries; they had twenty-four part-time district attorneys and only two secretaries. They kept all their books (this is in 1944!) in longhand; there was no typewriter in the office. It was the most antiquated law office you've ever seen in your life!

I put a man in by the name of Bert Levit who went over and studied the Oakland system that had developed under Earl Warren. We adopted the Alameda County system in the San Francisco prosecuting office. All my deputies became full-time; I think there were one or two exceptions that I permitted to have their private practice because I wanted a little experience in the office. But I told them they wouldn't be able to stay on permanently unless they were willing to come on full-time. That was one of the things that Earl Warren suggested.

Earl Warren also, through Ralph Hoyt, told me that there were two questions that they used to ask before they ever issued a criminal complaint. Number one, has a crime been committed? Number two, is there a reasonable opportunity to convict the person of the crime? In other words, is there sufficient evidence to justify going to a jury? If there were not, even though they may think the man was guilty, they would not issue the criminal complaint. So I took that

Brown: from Earl Warren's office.

I can remember Earl Warren coming to every district attorneys' convention from '44 to '50 when I was district attorney; he never missed one. Even in '48, when he was running for vice-president of the United States, he got his train diverted to Tahoe and he appeared at the district attorney's house in Tahoe. I remember particularly that I was on the stage. I think I was president of the District Attorneys' Association that year. We had that fellow who made the study of sex from the University of Indiana--what was the name?

Fry: Kinsey.

Brown: Kinsey. We had Dr. [Alfred C.] Kinsey talking about sex and sexual crimes from the study that he made. Earl Warren was quite impressed with him. I don't think I saw much of Earl Warren during the period that I was district attorney, but I got a feeling, although he never told me that, that he respected the radical changes I made in the district attorney's office when I became district attorney.

And I know I closed up the gambling places and I tried to close up the houses of prostitution, and we closed up a couple of abortionists that were operating flagrantly and openly. I know Warren viewed with approval this new thirty-seven-year-old district attorney of San Francisco, as I was then; I know he approved it, which really resulted in his refusal to take a position in the 1950 campaign for attorney general, when I ran.

That's all I can think about the changes I made, but I followed the D.A.'s office of Alameda County very closely, and it does seem to me that I did have a conversation with Earl Warren, possibly at a district attorneys' convention--I can't remember ever going to the governor's office during the period I was district attorney, although I may have done that. But I know I knew Warren, and we liked one another from the very start; that's about all I can remember about that.

Changes in Warren's Positions on Criminal Prosecution

Fry: In your previous interview, you mentioned that there were some instances of unfairness in his prosecutions, and I wondered what they were.

Brown: I think I cited the one of the painting contractor case where he'd come out and tell the press about the grand jury hearings, to create a climate against the prisoner. Warren was also the chairman of a committee of district attorneys and peace officers that came up with several constitutional changes.* (I think I talked to you about that the last time.) The changes were that Section 4.5 of Article VI (I don't know whether that was adopted or not), or Article VI of Section 4.5 (I get the two of them mixed up, but we could very easily find that out)--at any rate, this was the section that provided that even though there was error in the record, if the error were not substantial, the appellate courts should affirm. That was one of the things that he put in there: even though there might have been violation of constitutional rights, if the evidence were overwhelming, the state supreme court had a right, under that section of the constitution to uphold the verdict. Warren as the Chief Justice later on modified that and held that provision of the state constitution in violation of the Fourteenth Amendment. That is one evidence.

Another thing, he permitted the district attorney to comment on the fact that the defendant didn't take the witness stand; that was another one of the constitutional provisions that he put in.

Warren was really a relentless prosecutor. As a district attorney, he had a reputation of really going after them. But I was very impressed, not only during the time I was district attorney but during the period I was attorney general and during the period I was governor, with the high caliber of the Alameda County District Attorney's office. They told me they'd have meetings on Saturday mornings--and they'd discuss all the cases they had; each person would make a presentation, if they'd go there. I would have meetings of my staff too.

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* In 1934, four constitutional amendments were added to the constitution reforming criminal procedure.

Brown: Warren also told me that at first he didn't pay his young deputies anything; they'd come in just to get the experience. Well, I was unable to do anything like that.

Fry: We were out of the Depression by the time you became district attorney.

Brown: And things were a little bit higher then, although the salary of the district attorney was fixed in the Charter of San Francisco at eight thousand dollars a year in 1944, and I was making about $25,000 a year at my private practice. But it was wartime, so it was quite a sacrifice. I had three young children at the time, and it was kind of a sacrifice to leave my private practice, particularly with my two brothers who were associated with me, both of whom were in the navy. I had to close up shop, so there wouldn't be any place for them to come back to after the war was over. But I had a terrible sense of not doing my duty as a private citizen. Here I was making a lot of money ($25,000 was a lot of money in those days) with my brothers overseas, and I felt that I just had to render a public service by running for district attorney. And then, as soon as I got in, I raised the salary of my deputies. I couldn't raise my own salary because that was fixed by charter, but I got the supervisors to raise the salaries of my deputies. So they were making more than I was as district attorney.

Warren also had a civil department over there; he had both a criminal and a civil department. But Warren was essentially a prosecutor. As attorney general, he closed up the dog tracks, number one; number two, he closed up some gambling offshore ships. I don't think Warren bothered very much about search warrants or things like that. We didn't have his Miranda decision or the Cahan case* or any of those cases in those days, and if he thought a person was guilty, he really gave them the works. He was not the liberal; he was not the man as district attorney that he was on the Supreme Court.

I was always a little bit offended by the position that he took on the Japanese exclusion in 1942, and stated so publicly. I really didn't like Warren when he was the Republican chairman and joiner of all clubs and lodges; he was Grand Master of the Masonic order and belonged to a great many others. He was chairman of the Republican Party and everything else. He was coming from Alameda County where they had this powerful

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* People v. Cahan, 1955, California Supreme Court, forbade use of evidence in court which is illegally obtained. It preceded the Miranda decision of 1966, U.S. Supreme Court.

Brown: [Joseph] Knowland machine.

This was when I was a young practicing lawyer in those days, although I didn't have very much defense work; I didn't get down to the Hall of Justice very much. But my whole philosophy was defense-oriented as distinguished from being a prosecutor. But after I became district attorney, I was a mean little bastard as district attorney. I mean, I was really a relentless prosecutor myself. The philosophy of a district attorney is to get convictions.

Fry: When did you come out against the Japanese evacuation?

Brown: I was just a private citizen during that exclusion, but I did feel that it was very, very unfair to do. I don't remember whether there was any public announcement; I did tell my friends that I was against it.

I was somewhat appalled at the way Warren attacked Governor Culbert Olson too on certain things. When Warren was attorney general, he attacked Olson viciously; they despised one another. Olson was a tough Swede, but he was an extreme liberal, and I could see where the philosophy of Warren, the conservative Republican of that day, would be completely antithetical. They were at other ends of the spectrum as far as that was concerned.

I can't think of any other things. I'd have to have my recollection refreshed during the period that Warren was district attorney. It does seem to me like he had that case of those three men that went on the ship and beat up the prisoner.

Fry: The shipboard murder on the Point Lobos: King, Conner, and Ramsay.

Brown: Yes, Point Lobos. But I always felt that the people were guilty and this was a bunch of union goons that went over and killed them. I'd never sympathized with the attacks made upon Warren about the prosecution of that case; those people were guilty.

Fry: That almost became a cause celebre.

Brown: It became a cause celebre because it was a labor union issue and things like that.

III BROWN AS ATTORNEY GENERAL

The Crime Commission and Corruption

Fry: I want to pick up something on when Warren forced you to support his crime commission in early 1951. As I was going through the newspaper clippings in your old scrapbooks,* I noticed that right alongside these stories were ones of the Estes Kefauver Congressional investigating committee on organized crime, which caught the imagination of all the American people at that time. That must have made it a lot more sensitive for you to come out against any crime commission.

Brown: I wanted the credit, too, for cleaning up the state, if there were any. I felt that Howser, who was my predecessor, had consorted with some of the racketeers in the state and the crime commission was necessary to watch over him, but I didn't think there was any need for anybody to watch over me--although if you'll notice in the Kefauver investigation, it developed that I had taken twenty thousand dollars, or ten thousand dollars, or five thousand, from [lobbyist] Artie Samish. I don't know whether you saw that.

Fry: Yes, I did see that. The man in the legislature who was on the committee to check on lobbyists brought that up and made a public announcement of it.

Brown: As a matter of fact, the way that occurred was, during the campaign, I had steadfastly refused to take any campaign contributions from Artie Samish. Although my philosophy was that you don't sprinkle holy water on campaign contributions, I would take campaign contributions from anybody in a legal business, but I made no commitments to anybody at any time for any campaign contribution that I received. But for

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*Deposited in The Bancroft Library.

Brown: instance, if a person were in horse racing and it were legal in the state of California and they wanted to contribute, that was fine and dandy with me. If liquor distribution were legal, I would take it. I wouldn't take it from gamblers, I wouldn't take it from prostitutes, I wouldn't take it from abortionists. That was my philosophy. If anybody wants to give it to me, they're buying my philosophy (to use one of Ronald Reagan's old expressions); I wasn't buying theirs.

But Warren really, by sheer force of personality and patience, got me to accept the crime commission for another year, which we did and we got along very well, and everything worked out fine.

Fry: In the press statements, you finally said that you would support this and cooperate in every way. I wonder what you really did in cooperation with the crime commission. Did you actually have any activities going on?

Brown: I think I told you I took Arthur Sherry and a man named Harold Robinson, who were the chief counsel and investigator for the Organized Crime Commission for the State of California, and made one of them my chief deputy and the other one my chief investigator. So I kind of used Warren's crime commission.

Fry: As your training ground, huh? [Laughs]

Brown: So, that was all the cooperation needed. Of course, Warren liked that very, very much because he knew there could be no hanky-panky as far as I was concerned.

Of course, San Francisco was a liberal city. When I grew up in San Francisco, they had open houses of prostitution, they had open books. And the police really licensed them; they'd decide who could operate and who couldn't. They had two abortionists that operated almost openly; one, Inez Burns, that operated as openly as they do today, and people would tell me that she was very, very good too. Doctors told me that; doctors, as a matter of fact, would send their patients to her. People would come in and want an abortion; the doctors wouldn't do it because of losing their license, but they'd refer them to Inez Burns.

Fry: Did you have to take her out of business?

Brown: I took her out of business, yes. She was also corrupting the police department. We had substantial evidence that

Brown: she was paying off about four hundred dollars a day to the police. Four hundred dollars a day--you wouldn't believe it. She was doing a business! She was doing maybe ten at two hundred dollars apiece. She was doing two thousand dollars a day and she'd pay four hundred dollars off to the police. We found a memo when we raided her, "Police: $400" or something.

Her husband, who was former assemblyman Joe Burns, used to play poker with Fire Chief D'Aule, who was the deputy fire chief and the brother of the chief of police. They used to play every week; they were very, very close. This couldn't happen anywhere else in the country.

Fry: And guess who always won the poker games. [Laughter]

Brown: That we didn't know.

Ivanhoe Irrigation District vs. All Persons

Fry: On water resources, you decided, after you became attorney general, to turn around former Attorney General Howser's position. He would have put the state in opposition to the 160-acre limitation embodied in the contracts that the irrigation districts made for Bureau of Reclamation water.*

Brown: Right. They tried to have it declared unconstitutional, in the case of Ivanhoe Irrigation District vs. All Persons; that was the name of the case. The attorney general had filed an answer--through an attorney by the name of Arvin Shaw, who was a special counsel. He did all the water law for the attorney general's office; the attorney general's office had no water department of any kind, nature, or description, and so they were completely dependent on his legal opinion as to what cases they should prosecute or defend.

I had been district attorney of San Francisco. You don't have any water cases when you're district attorney of San Francisco. And I had never had even the slightest water case during the seventeen years that I practiced law individually. But as I campaigned for attorney general throughout the state and talked to the irrigation district association and talked to farmers, I became very much aware of the sensitivity of water. The average person living in a city, as long as that

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*The Reclamation Act of 1902 limits contracts for Federal Bureau of Reclamation water to farms of 160 acres per owner, 320 acres for man and wife.

Brown: water comes out of the tap, doesn't think of water. But you get down on a farm or a ranch, and water becomes the life blood of your operation.

For some reason, at law school they didn't give a course on water law during the regular session. But I had taken a course on water law during the summer session, a course on water law and mining law, because as a Californian, I was intrigued by the water cases--Lux vs. Hagen and some of the old water cases. And the mining law of California--it just seemed to me that any person that was a pioneer Californian should know something about it. So I was going to night law school, and they had two real experts. They had a man named Weil who gave the course in water law, and McColby (to think that name comes back to me after all these years!) gave the course on mining law. And I took both of them. The mining law I didn't fully understand, but water law intrigued me.

Then, here it is, seventeen years later, plus seven years as district attorney--twenty-four years later. I'm running for attorney general and I found out that people literally fought over this water. It was a minor point in the campaign, but it just intrigued me. So after I became attorney general, for some reason I just didn't know what position to take on the acreage limitation; I wasn't sure whether I should go along with Arvin Shaw.

So I assigned two deputies to individually check into the law, in the office. I said, "I want you to take a look at this and come in with reports." Both of them came in with opinions. One was Bert Levit and the other was Abbott Goldberg. Both of them came in with opinions that the position we were taking was erroneous--the legal position, not the question as to the philosophy of the acreage limitation. But the overriding issue was, if our position prevailed and the acreage limitation was unconstitutional under the law of the state of California, then California could not contract with the federal government where the federal government required acreage limitation as part of any subventions they made for water development in the state. This would have prevented California from contracting with the federal government. The Central Valley project was a federal project; that was a federal project. But if we were going to develop our own water project, we would have to agree, as a condition precedent to getting federal money, to conditions that might be imposed upon us by Congress. The position that Howser and Shaw took was that we were just absolutely prohibited from contracting with them; their position was that if it were

Brown: declared unconstitutional, that the federal government would amend the law.

But I wanted to give California the right to contract, and we thought the position was incorrect. So, I personally--as one of the first things I did--went down with Bert Levit to Visalia personally. I walked in to see a judge down there, and the judge had been specially assigned by Chief Justice Phil Gibson. (He was from Lake County, I remember that. I can't remember his name right now.) I walked into his chambers. He had ruled in my favor when I was a private practitioner, and so he was very much impressed with my argument that I made in this case. As I walked in--I'll never forget it--he said, "We're going to give the bastards in the federal government a good time in this case."

I said, "Gee, Judge, I'm on the side of the bastards in the federal government." I debated whether to disqualify him. But I thought so much of him as a judge because he'd decided a couple of cases in my favor when I was a private practitioner, that I decided to let it go. But he was absolutely against our position and he gave Abbott Goldberg a bad time in the trial. He finally ruled against us.

It went up on appeal, and on appeal the Supreme Court of the State of California sustained the judge's position by a 4-3 decision, therefore declaring the contracts invalid because they violated the law of the state of California.

Then the question arose, should we take it to the Supreme Court of the United States? I'll never forget Herman Phleger, and a water lawyer (the specific fellow that was representing them) came out to see me as attorney general and tried to convince me that the position I was taking was diametrically opposed to states' rights, that states should be able to make their own laws with respect to water. But I was persistent in my position, and the case went up on appeal to the Supreme Court of the United States.

Warren was by then chief justice. He didn't write the opinion--I don't think he wrote the opinion--but the opinion unanimously sustained me, the attorney general, that the contract was a valid contract and California had a right to enter into it.

I had discussed this case with Earl Warren as attorney general, and somewhere along the line I thought Earl Warren

Brown: should have disqualified himself when it came before the U.S. Supreme Court because we had talked it over. I don't think he ever told me to take it up on appeal, but he didn't tell me not to do it.

Fry: That's interesting, because Warren remembers himself as disqualifying himself when it came before the Supreme Court, yet the record shows otherwise.

Brown: He didn't disqualify himself in this case; he disqualified himself in another case; I think that was Arizona vs. California. There was another one he disqualified himself in too.

Fry: That may be the answer to that puzzle.

Brown: But I was somewhat amazed that he even participated in the opinion. I'd have to look at it; you'd have to take a look at Ivanhoe Irrigation District vs. All Persons in the Supreme Court. But I know that he was in it because, in my own mind, although I loved Earl Warren, I thought to myself, "You should have disqualified yourself in this case because I talked to you about it." I didn't talk to him about it after the case was pending, but while he was governor.

Fry: What about a case like that one, that actually had its beginnings back when he was governor of the state?

Brown: It's questionable. It was a court case and he had nothing really to do with it; so he really didn't have to disqualify himself. It was a question of discretion, but he didn't do it.

Arizona vs. California

Brown: Then we have the case of Arizona vs. California. I fought California's position and used a lawyer from Stanford who'd been working on it; he'd been retained by other people. What the dickens was his name? Mike Ely. He had been retained by [Attorney General] Howser and by Warren too as a special counsel in this case, and I kept him, although I was always a little bit suspicious of him, not of his ability but of the fact that he was somewhat dependent upon these irrigation districts who were big-land-owner oriented. But I kept him on anyway because I felt California had to get its full share of the waters of the Colorado.

Brown: So we moved along on that, and I left it completely at his discretion, although he kept me advised. I made the opening argument before the special master. I don't think I argued it before the Supreme Court; I may have. I think I made a presentation, but I wouldn't call it an argument, before the Supreme Court of the United States. Ely argued it and I was present, and he argued it very, very well. We eventually lost that case, I think after I became governor and had left the attorney general's office.

Bible Reading in Public Schools

Brown: I would talk to Earl Warren about policy decisions like this. I felt that, if it was strictly a legal matter, I would not discuss it with him. I mean, maybe of the many decisions--the thousands of decisions--I had to make during the eight years I was attorney general, I don't think I discussed policy with him more than four or five times, about a particular case or situation.

Like on Bible reading in the public schools, I wrote an opinion holding it unconstitutional: you couldn't read the Bible in the public schools--you could read it as literature; I insisted on them putting that in, the Bible can be read like any other great book--but that it could not be a source of doctrinal pronouncement from a teacher, and they had to be careful that it was read as literature and not as the word of God. We wrote that opinion, which was later adopted by the Supreme Court of the United States in subsequent cases. I always thought our opinion was better than the Supreme Court opinion, between you and me. I used to read every opinion.

Talks With Warren

Brown: I'd go up to Sacramento to see Earl Warren maybe two or three times, four times a year, and he'd take me out to the Del Paso Country Club. Earl Warren was a man who could sit there and talk and listen. Let's see--Earl Warren was fourteen years older than I, and when he was sixty and I was probably forty-six, that seemed like a wide separation. I regarded him as a much older and a much more senior man than I was. But we got

Brown: along very well; I had tremendous admiration for Earl Warren from the fact that he didn't participate in a shoddy campaign, number one; number two, the fact that he was able to convince me, against my better judgment, to go along with that crime commission at that time.

His integrity was outstanding--Warren's integrity, his refusal to kowtow to some of the big financiers of his campaign. People would come to me and tell me, "Warren's a sonofabitch." They'd tell me, "I gave him thirty thousand dollars and then I couldn't see him."

So I'd say to Earl Warren from time to time, "I met Bill Keck," who was head of some oil company down there, "and Bill doesn't like you." And then I said, "He says you kept him waiting after you took campaign contributions and cashed them."

He says, "Yes. He wanted me to do this, that, or the other." I can't remember what it was, but whatever it was, it wasn't corrupt in the sense of offering Earl Warren a bribe; I don't think anybody would ever have the temerity to offer Earl Warren a bribe because I think he'd throw you right in the bucket. And people knew that; his integrity was so great that you wouldn't do it.

But Warren was a man of great prejudice. If you did anything wrong, he was an unforgiving man. He never forgave Ed Shattuck. He never forgave Richard Nixon. You read the statements in the paper where he was said to have called him a crook and a thief. He told me that; he's told me that Tricky Dick--that's what he used to call him--he didn't like him at all.

Fry: Do you know what that started with?

Brown: It started with the '52 campaign for the presidency when Eisenhower and Taft and Warren were the candidates, and Nixon was on the Warren delegation. He went back and made a deal to support Eisenhower. And he got the vice-presidency as a result of that. But Warren never forgave him; he thought he double-crossed him. And he didn't like him anyway; Nixon was the kind of guy that Warren would instinctively distrust.

Warren was quite a family man. There was no social intercourse at the mansion when I was attorney general and he was governor; our family was never invited to the mansion. I don't think he invited very many people to the mansion. He

Brown: kept that as his home. When I became governor, I had legislative dinners and I would have people over for breakfast and over for dinner, politicians over there; it was quite a thing to be invited to the mansion. I'd bring people up that might be campaign contributors. I used the mansion both for political and state purposes during the period that I was a governor.

Warren was quite a political leader up to the time he was governor. After he became governor, he became somewhat non-partisan. You take a look at his appointments. You will find out that Warren made all of his appointments on the basis of merit and he appointed a great many Democrats judges. He appointed a great many Democrats to his immediate staff, like Bill Sweigert.

When I became governor, I really tried to follow that course; the example he set I thought was a good one. He appointed more Republicans; he was close to the Republican leadership of the state, but he also appointed a lot of Democrats. So when I became governor, I brought in Bert Levit, who'd been a Republican, and made him the director of finance, and I appointed a lot of Republican judges. I put Louie Burke on the Supreme Court; he was a Republican.

But Warren had a great influence on me in many, many ways, and I think I influenced Warren too; I think that it was a two-way street. I think that he influenced me more than I influenced him. I don't think anybody really influenced Warren. I don't know who his confidants were, if he had any. He was not very close even with his personal friends. They have told me they had a good time with him, but never learned his real thoughts.

I told you about the time when I went into his office and he said, "Play your cards right up here like this," [imitating Warren's gestures and voice], and he put his hands up like this. He said, "Don't lay them down on the table where everybody can see them. You can't play poker that way." He used to love to play poker. So.

Water Project Authority and the Feather River Project

Fry: There was one other thing on the water topic that I meant to ask you. You were on the Water Project Authority, and the Blue Book says that was created to administer the affairs of the Central Valley Project, and that in 1951 the state legislature authorized the Feather River Project for construction by the Authority. Under that authorization, units or portions of the Feather River Project could be constructed or maintained and operated by the Authority as units of the CVP, "separate and apart from any and all other units thereof." I wondered what your position was on that, because it sounded like it might have been skirting the contract question of the 160-acre limitation.

Brown: Well, now, the contracts question would have been decided in the Ivanhoe case, whatever the law was on that. But I attended every meeting of the Water Project Authority in Sacramento. We had the state engineer, Bob Edmonston, on it; the controller was on it; I think the director of finance; and the attorney general. That was the Water Project Authority.

I was also a member of the district securities. The districts put out securities, and we passed on bond issues of the securities.

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On the Water Project Authority, I observed the influence of the large landowners on that authority. They all wanted the acreage limitation eliminated; that's why they wanted California to build the project itself, rather than have the federal government build it because the Central Valley Project contained the acreage limitation. Under the acreage limitation, before the person could get water, they would have to record a contract--an agreement--providing that they would sell the land they held in excess of 160 acres at the end of ten years for the value of the land before the water went on it. They gave them a break by making it 320 acres if the owner was married, under the community property laws of the state of California.

I thought it would be very difficult for California to finance that project by itself.

Fry: Yes, the state wasn't all that affluent then. I wonder if, in 1951, there was any hope then that the state would ever finance it.

Brown: I really don't think there was. They didn't know how to finance.

Of course, you also have the question of water rights, which were a very, very difficult subject. The North was afraid that if the rapidly growing population of the South

Brown: ever got that water, that by their larger vote, they would never let them get it back. And the South was afraid that the North, under whatever water rights they had, would take the water back from them after they financed distribution systems and everything else.

So I assigned Abbott Goldberg all the water cases, including the Ivanhoe and Rank vs. Krug cases. I didn't assign him to Arizona vs. California, but I did assign all the other water law cases. We wrote all the opinions. He influenced me greatly in my philosophy of development. We concluded that it was silly to talk about water rights and of surplus water--that the law of water is only the law of shortages; as long as there's plenty of water, nobody worries about water rights. So, they convinced me that there was plenty of water; so therefore, let's build the project.

California Water Project Basis: Counties of Origin Opinion

Brown: We wrote an opinion on this question, called the counties-of-origin opinion. That was written during my administration as attorney general, which held that the counties of origin could reclaim the water any time they could make beneficial use of the water. We didn't feel that the counties of origin, like the mountain counties, could ever really use all the water. You know, the water flows out; what the hell are you going to do with it? There's no land for irrigation.

So, we had no trepidation in writing the opinion. I'd like to see that opinion now; I haven't seen it for probably twenty years. But that opinion was also a precursor of the California Water Project because that committed the Northern California people to realize that if they ever needed the water they could get it back. [Laughter] Question: what was the county of origin? Where was the county of origin? Was it way up in the mountains? Was it down along the slope or along the plain, number one? Number two, the water rose in federal land; most of this is national parks or forestry land. So it was questionable whether or not California really had anything to say about it. We knew that. We were trying to write an opinion that would permit the building of this project.

I became convinced, with the state growing at the rate that it was growing, and with all that population in the South,

Brown: that we'd lose Arizona vs. California, as we did, and that Arizona should develop too. In my own heart--not as a lawyer, but as a statesman, if I can so dignify myself--I thought, "Let's give Arizona the water! We've got plenty of water here in California. Give Arizona the Colorado."

Fry: Really?

Brown: Sure!

Fry: Warren said that same thing.

Brown: He and I talked about it. We thought these water guys were nuts. But we had to build the California Water Project. I mean, we didn't want to take it away from our own state. I didn't want to surrender any rights that California had. But I was never sympathetic with California's position, and neither was Earl Warren. He and I talked it over. We thought that these fighters and water lawyers for California in Arizona vs. California were just making a career out of fighting Arizona. We felt that we should work together to develop the water resources of all the western states. So that was that.

Deciding on the California Water Project Plan

Brown: I tried to pursue studies of bringing the Columbia River water down from Oregon. Of course, we also wanted the California waters up in Humboldt County, and the Eel, and maybe the Klamath--the second phase of the California Water Project envisions the use of that water. But the legislature now, under the environmental influences that you have today, have classified some of those rivers as wild rivers. So that will hurt the California Water Project in the years ahead, unless they amend that in some way because they are going to have to have that northern California water to protect the Delta from salinity and pollution. That's one of the big problems in the peripheral canal. When we proposed the peripheral canal, we figured that we'd get that northern California water and bring it down to the San Joaquin Valley and the South. It was a whole plan--building dams in Humboldt County, taking the water down to Lake County and then through tunnels into the other.

But later the wild river bill was signed by Reagan. Reagan was surprisingly environmentally-minded in those things. I don't know whether I shared that philosophy. I'm an

Brown: environmentalist, but I'm also a builder; I love to see projects. [Laughter] I don't know where I get it. For instance, I built the bridge from San Diego to Coronado. The environmentalists--whatever environmentalists there were in those days (there weren't too many of them) and the army and navy didn't want that bridge to go to Coronado. They wanted to protect Coronado from more people. The retired admirals were very selfish. But there's a beautiful beach over there now. To let that ferry have the monopoly always annoyed me.

I put a bridge over Humboldt Bay too. When I say "I" did, I mean as governor, who is a member of the California Toll Bridge Authority. The other members are the director of finance and one member appointed by the governor and the lieutenant governor. If I wanted to build a bridge, the only thing that would stop me would be the financing of it. But I was not that much of a bridge builder because as governor, I authorized and fought for taking $150 million out of bridge tolls and putting the money in Bay Area Rapid Transit. We used the money to build that tunnel under the bay. I was for building permanent structures. I realized that gasoline would not last forever.

I was also more of an environmentalist than most people will know. I was a Northern Californian. Although as a kid, I felt there was something virtuous in bigness, and when Los Angeles passed San Francisco in population, I was just a youngster, but it bothered me. It was like the Rams beating the Forty-Niners. It was something I lost personally. [Laughter] But as I got older, I saw there's no virtue in being fat or being big. So we discussed, very seriously, whether we should build the California Water Project at all.

Fry: Who's "we"?

Brown: My staff people--men that were around me. I can't remember, but it was probably my executive secretary, Fred Dutton. Fred Dutton was always against it. Abbott Goldberg, my water man, was for it. I can never forget Fred Dutton saying to me that building the California Water Project, "The cost will be so great that we'll drown all the school children and all the universities in the state. There won't be enough money for the universities." So I said, "The hell with it. We can have both. We're a rich state."

Fry: Was the acreage limitation an important point in this decision?

Brown: No, because we excluded the acreage limitation from the California Water Project. We did not put it in, and the reason we

Brown: didn't put it in was that we felt that might defeat the project. In other words, if we had the acreage limitation, we were afraid that we wouldn't get the support of the big landowners. I wanted to build a water project and worry about the philosophy of land use later on. The Federal Reclamation Law provided a massive subsidy to the farmers, but in the Feather River Project the farmers paid the actual cost of the water.

As a matter of fact, I was never convinced that acreage limitation was really the answer.

Fry: Because it would mean keeping farms smaller?

Brown: It would mean keeping farms from 160 to 320 acres. But a farm of 320 acres at a thousand dollars an acre is $320,000, and that's not a poor man's farm. People envision 160 acres as a small family farm, but is it really? The 160-acre limitation was part of the Reclamation Act of 1902. I tried to find a better way to justify the subsidy. There's a big subsidy in the federal Central Valley Project. They sell that water for $3.50 an acre foot, and in the beginning it cost fifteen dollars to deliver that water to a farm. So the farmer was getting a big subsidy, and the idea was to limit that subsidy. It probably costs more now, but under the California Water Project, as distinguished from the Federal Bureau of Reclamation and their Central Valley Project, we made the people pay the full value of the water. [Emphasizing words by striking the table] There was no subsidy--theoretically--in the water, although there is a built-in subsidy because the domestic users pay more for it than the agricultural farmers.

Getting back to the environment--I'm wandering around quite a bit; you may, after you hear this--

Fry: We're good at scotchtaping topics together.

Brown: Are you? Well, we sat around and discussed it all. I would ask the question--like my son [Governor Edmund G. Brown Jr.] asks questions today--"Why take that water from Northern California down to an oasis in Southern California, and permit more people to come into California, come into an area where there really should be a ceiling on the population? Wouldn't it be better to limit the growth of Southern California by not having water down there? This would in and of itself discourage population growth because industry wouldn't locate where there was no water."

Brown: We fully discussed that. But, I repeat, I'm a Northern Californian, and there were two reasons why I didn't follow that theory. Number one was that people who had studied population told me that the fact that water wasn't there would not slow up the growth. As a matter of fact, they'd still come to Southern California, even if they had to ration water in Southern California, because there were other factors such as oil, the motion pictures, and the climate. They said a water problem would just make life more miserable for Southern California people, but they would come anyway. Number two, if we didn't sell the water to Southern California, we couldn't build the flood control projects, we couldn't build the Feather River Dam, and we would deprive the San Joaquin agricultural lands of the water too. We had to get that water down there.

Fry: And you'd see the whole plan going out the window--or down the drain?

Brown: That's right--literally go down the drain.

But the overall thing (although it was not probably the main thing) was as somebody said to me, "You know what'll happen. If you don't bring that water down to Southern California, all those people coming into California will go to Northern California!"

I said, "All those yokels from the Southern states and from Iowa will come up to Northern California--up to my country? The hell with it. Build the California Water Project, and keep them down South!" [Laughter] So, I really made a great environmental decision in that case. That's really a true story. So that was that.

Did I tell you in the last session that there was a California Law Review article that came out in November of 1950; you take a look at the California Law Review of November, 1950. And by the grace of God, sometimes I'm-- [pauses].

Fry: You are watched over?

Brown: I'm watched over, because there I was, the newly-elected attorney general, and this Law Review article devoted itself completely to California water problems--the whole issue was California water law problems. And remember, my only connection with water had been during the political campaign, where I talked at the Irrigation District Association, and my course in water law that I'd had twenty-five years before. This

Brown: article reviewed everything: Arizona vs. California, the acreage limitation, the Herminghaus case, Rank vs. Krug--all those great water cases that I read from cover to cover. I'll never forget. My wife Bernice and I took a trip to Jamaica, and on this trip I read that and then I re-read it. Then I came back and read the cases. So I became a pretty good expert on California water law. I amazed the deputies in the attorney general's office when they found out what I knew about water. Those articles had both sides of all the questions; they influenced me greatly. So when I would talk to Warren about water and water problems in the state, he must have known that I knew something about the water problems of California.

Santa Margarita Water Case*

Brown: There was another California water case that came up during the period that I was attorney general that there should be some historical note of. That was the Santa Margarita case down in San Diego. The marines had purchased Camp Pendleton and they purchased the water rights on the Santa Margarita River. Someone brought a suit against the United States government, declaring that the federal government had appropriated the water illegally at the time of Camp Pendleton.

Sam Yorty was in Congress at the time, and he bitterly denounced Truman, who was a Democrat, and who was my friend--pal--and denounced the United States attorney general's office for filing this law suit against all these poor little California land owners. And [Clair] Engle, who was then a Congressman and chairman of the Interior and Insular Affairs Committee, agreed with him. He came out with a statement, too.

I called Yorty and I said, "I think you're wrong. I think we have to fight for California, but I don't think you should attack our president or attack the attorney general. I think that the federal government has a legitimate, justiciable claim to this water. I think it should be litigated. I think California should maybe assert all the claims for its citizens, but don't call the attorney general of the United States a thief in the night." (If you'll look back on the clippings in my scrapbook, you'll see he was denouncing him terribly.)

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*People of the State of California vs. Santa Margarita Mutual Water Company, 1956.

Brown: But he disagreed with me. He said, "Ah, this big hand of the federal government."

I talked to Clair Engle on it, who was really funny; he said to me, "This is the greatest masterpiece of demagoguery I've ever engaged in!" He admitted it, but he just did it. Clair was so funny about those things. Clair Engle knew water law too--not as well as he thought he did, but he knew it pretty well. He'd been on that House Committee of Interior and Insular Affairs and he'd done a good job. He and I worked very closely on those things too. In that Santa Margarita water case--I think it was eventually settled, or I think the United States government lost it. How are we doing?

Fry: We're doing just fine. It's now 4:30.

Corporate Farms vs. Family Farms

Fry: The only other thing I would like to add to this would be any indication you could give us of how the big farmers, like DiGiorgio Fruit Farm, Incorporated, brought their pressure, at what points. I thought maybe one was on this California Water Projects Authority. Did they try to influence you?

Brown: Yes, they did. Bob DiGiorgio happened to be a neighbor of mine. Bob DiGiorgio lived right next door to me; he contributed to my campaign for attorney general. I lived at 460 Magellan Avenue in San Francisco and he must have lived at about 454 Magellan Avenue. There was only one house between his house and mine. He had three little girls and I had three little girls too; two were almost the same age as his. They played together all the time. As a matter of fact, when I was elected--after I was elected governor in '63--I took Barbara DiGiorgio over to Europe with me. She made a trip with me on this trip with my daughter Kathleen; Kathleen and Barbara DiGiorgio were very close.

So Bob and I would talk about the water plan. He was never unpleasant about it, although he talked to me about it. But he was represented by Brobeck, Phleger and Harrison in San Francisco, and they came out together to urge me not to take this case that we had lost in the Supreme Court of the State of California to the Supreme Court of the United States.

All the big landowners poured money into this Irrigation

Brown: District Association of California. This association was just a mouthpiece for the largest landowners--Kern County Land Company, Standard Oil, and the Southern Pacific, and I saw the group as a Democrat. I instinctively distrusted their power, and I thought I had to represent all of the people. Although in the California Water Project I was politically practical enough to not put the acreage limitation in it. We debated whether to put it in it, but we concluded that if they pay the full value of the water, and there's no subsidy, why incur their wrath?

As a matter of fact, there were several articles written at the time that said there should be some substitute for the acreage limitation--that the acreage limitation had outgrown its usefulness. For example, compel corporations to have at least a hundred stockholders so that whatever subsidy they got would be divided by a hundred people; the increment from the subsidy would go to a hundred different people rather than go to a husband and wife with a $320,000 farm. We thought there were more equitable ways to distribute the benefits of a water project.

And there's a grave question whether corporate farming is not more efficient than the small farm. My mother was born in Colusa County, fourteen miles west of Williams. When I was a kid, we'd go up there, and there were twenty little different farms up there. There was a school house. I can remember going up there, and all the neighbors would come in for a party on Saturday night. It was very, very nice and very pleasant. But before the acreage limitation ever became a question, people could eke out an existence in those 200, 250, or 350-acre farms. So it sounded good. But it's like a lot of some of the liberal theories that people have; they don't examine them, they don't try to measure the benefits against them. I try to be objective about it. There were no water benefits on our Colusa County farm, but all of the small farmers have left. Farming was just too difficult on a small farm.

I'll never forget, at one time they came in to me--some liberals--and they wanted me to take a position on the high dam on the Snake River versus the lower dam. I said, "I don't know a thing about it. I haven't studied this project and I'm not for or against it."

They said, "Senator Morse is for the high dam."

I said, "Because Senator Morse is for the high dam, is that God speaking?" But that's the way some liberals do. (I'm talking more about me than I am about Earl Warren, but I imagine

Brown: that's what you want.)

Fry: That's fine, this is about the Warren Era.

The other thing I wanted to bring up, because it was such an issue in the Helen Gahagan Douglas-Richard Nixon campaign in 1950, was that the retention of the smaller farms would help eliminate the problem of migratory labor, because you wouldn't have these huge farms that need a big labor supply for a very limited time.

Brown: Families would want family farms. Yes, that was the issue. And that was true, because the big farmer, beyond peradventure of a doubt, needs this cheap Mexican labor in order to make any money on it. They still do. As a matter of fact, you've got as many immigrants--wetbacks--in California today as you had when I was attorney general.

There was one stage when (was that when I was governor or attorney general? I can't remember) the president issued an order (I can't remember whether it was Kennedy or who it was) that the ninth army corps would patrol the borders to keep the wetbacks out because of the complaints made.

I'll never forget the general calling me and telling me, "Governor, I don't like to tell you this. This is between you, me, and the lamppost." (I forget who it was.) He said, "We haven't got enough soldiers to patrol that border around here." He said, "That's the silliest thing that I've ever heard of in my life." I think they maybe did it for two or three days and the order was recalled.

But I got a little bit worried about what a <u>little</u> army we had. [Laughs] If we couldn't protect ourselves against wetbacks coming across, how the hell could we fight the Japanese or the Russians or anybody else? [Laughter]

IV ELABORATIONS

More on Earl Warren

Brown: Did you interview Warren yourself?

Fry: Yes, the staff and I interviewed him.

Brown: Where, in Washington?

Fry: Here.

Brown: He came to The Bancroft--

Fry: Three different marathons, yes.

Brown: How long would they last?

Fry: All day. We'd start in the morning, break for lunch, and then keep going after lunch.

Brown: Interesting guy, wasn't he? Didn't you genuinely like him when you got through with him?

Fry: Oh, I did. And then I would visit him in Washington, but we wouldn't tape record; we'd just talk and I'd take notes.

Brown: He was a very, very gentle man and a very compassionate, but he was also tough.

Fry: Very firm-minded.

Brown: Very firm, very tough, very tough.

Fry: A marvelous person.

Brown: I'm a completely different character than Earl Warren. You'd never see Earl have a hearty laugh, like I have; I mean, he'd laugh, but never with the gusto. My son is much different from me too. He's much more serious than I am. I'm serious, but somewhere along the line I got kind of a light philosophy, I can make jokes about myself and about things.

Fry: My prototype of an Irishman. (Since I'm Irish, too, I can say that.)

Brown: You can say that. Of course, I'm only half Irish--half Irish and half German. I still have a ranch, by the way, which should be recorded; I have 2760 acres up there in Colusa County, the original land patented to my grandfather in 1852.

Fry: On your mother's side?

Brown: On my mother's side. They were Germany. My grandfather came across the plains and then went back to Germany and brought my grandmother out in 1856 or '57. That was a tough trip in those days, it took damn near two years to do it. So you can see that I came from sturdy stock.

On the other were Irish who came from Tipperary. That was on the Brown side. That grandfather was a gardener in Golden Gate Park. An interesting phase of the thing: both of my grandparents were periodic alcoholics. My Grandfather Brown--he'd go get drunk every six months and take the pledge for six months. And then the day the pledge was up, he'd go out on a three or four-day bender. [Laughs]

My grandfather on the other side was August Schuckman. Mother said that he'd get drunk for two or three or four days and he'd come in, "Raus mit em!" (It means "Get out of here!") You know, he didn't even speak good English! So they laughed about it.

My poor mother, I wish that someone had gotten to her with a tape recorder.

Fry: I do too. I really wanted to go over there and have some sessions, even though I had no project then.

Brown: She would have enjoyed it, and it would have been good. God, it would have been great. I wish a person that had been a discerning person like you could have done it.

Fry: It had to be a discerning person with funds, and that was our problem. If I could have umbrellaed her in under any series then going on in our office, I certainly would have done it.

Fry: It's really too bad. And she was quite bright, too, right up to the end, wasn't she?

Brown: She was. She had a cancer of the colon, and she was operated on in July, a year before she died, and she was never completely comfortable after that; it took her a long time to recover. I think that she always had some bowel trouble and couldn't enjoy her meals like she had. Although the day before she died, she had lunch at the Palace with my brother and I talked to her that night and she said, "I had a delightful lunch. I had a little scotch on the rocks and I had some fish, and it was delightful."

Fry: Well, I have a few more pickup questions here on Warren. I notice in your clippings that you came to the aid of Earl Warren when his Supreme Court appointment was before the Langer Committee--and you released the letter to the press that you had sent the Langer Committee.

Brown: Did I? I forgot about that.

Fry: One of the quotes from it is that you were protesting the intimations against Warren's qualifications. It was a very strong letter, and I just wondered if you remembered the circumstances.

Brown: I know I did it voluntarily. I don't think Earl Warren ever asked me to do it, but I did it myself. I just wrote a strong letter for Governor Otto Kerner [of Illinois] when the parole board turned him down the other day too; I wrote a letter for him--a strong letter. It was a rough letter too; I told them they were a bunch of cowards for not letting him out, Kerner, who was a sick man.

When Alioto was charged by Look Magazine,* I called a press conference of my own and said, "This is the most outrageous thing. I certainly would have known whether Alioto, when I was governor, had any connection whatsoever with the Mafia under the confidential information that flowed into me as the head of the Department of Justice, State of California; I would have known about it." I said it was ridiculous. I wasn't in office when that article came out, but

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*"Web That Links San Francisco Mayor Alioto and Mafia," R. Carlson and L. Brisson, Look, September 23, 1969.

Brown: it was an outrageous article. I've had no use for this Lance Brisson, who wrote that.

But I have no recollection of writing that letter to Earl Warren; I'm glad to know that. You ran across that in the clips?

Fry: Yes, it's in your scrapbooks.

Brown: That's one of the things that Warren probably remembered too.

Fry: Yes, he probably did. He didn't mention it to us, but I know that he was very grateful when people came to his aid during that period.

District Attorney Days

Fry: You mentioned Artie Samish awhile ago, and I wanted to ask you about the information that came from Samish when he bragged about himself before the Kefauver Committee, saying who he controlled and so forth. Did your attorney general's office follow this up any? In other words, did you go and check out legislators' campaign contributions from Samish or anything like that?

Brown: I think the Kefauver investigation was before I became attorney general. I think it came as an outgrowth of the Kefauver hearings and the California Crime Commission, when they were both running maybe parallel to one another at that time.

But I knew Samish in San Francisco. When I was running for district attorney, I went over to see him and ask for support; he was kind of a powerful politician. He was very pleasant to me and very nice to me, but he wouldn't give me any money, wouldn't give me any help. As a matter of fact, we discovered later--they had open gambling in San Francisco, and they had the odds posted--he put up five thousand dollars at five to one (five thousand to one thousand) that Brady would be re-elected, to make me look like an impossible candidate. There were no polls in those days. So he did that, and they told me that he was putting it up. Well, we grabbed and we grabbed that. Then the odds began to drop, and we were betting on me because I got two newspapers supporting me; I had the Chronicle and the San Francisco News.

Brown: As a matter of fact, just in passing (you might not have known this), I was doubtful whether to run for district attorney back in 1943. I was on the fence. I felt that I should do it, but nevertheless it was a sacrifice and I had a family growing up and everything. So I went to the editor of the San Francisco News--a man by the name of Frank Clarvoe. I said, "Frank, I'll run for district attorney, but I'll run only if you will agree to support me before I get into the race."

He said, "Let me think it over." He called me and said, "Come down and see me."

I came down to see him and he said, "I'll support you." So I got into the race. I knew I had one newspaper. It was almost impossible to get any of the four San Francisco newspapers.

Four years before that, they all said I was a nice guy, nice young lawyer, but Brady represented the attitude of San Francisco, he represented the free spirit of the city, no graft or no corruption, he was an honest man. And he was an honest man. He was not a crook; Brady was not a crook. I think he did borrow some money ten years before from Pete McDonough. Pete was the so-called fountainhead of corruption in San Francisco. This was disclosed by the Atherton graft investigation. But Brady was really an honest man. I could never accuse him of being a crook, although I think I published the fact that he borrowed this money, which he shouldn't have done. That's just a little footnote because I just happened to think about it. (When I think of things, I'll just record them.)

With Samish, I never saw him during the period that I was district attorney. I may have seen him around San Francisco. I'd been around San Francisco myself as a young lawyer and was a young guy about the town. I knew a lot of the characters and I knew all the gamblers. My father was a gambler (you knew that) and he had a little poker club. I knew all the figures. I didn't know Sally Stanford,* probably because I couldn't afford her. [Laughter] And I didn't know Mabel Mallotte either, who was another madam.

But I knew about the abortion places, because everyone knew about them, I think. So many wives and mothers of that

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*A "madam" and one of San Francisco's most famous, if not revered, citizens.

Brown: period would have abortions from this gal. She had Dr. O'Connor, who was the president of the Catholic Doctors' Guild, who would repair any of the mistakes. If a girl developed an infection or anything from those operations, she told them immedidately to go and see Dr. O'Connor. They'd go to see Dr. O'Connor for any pain or anything like that. So she did a pretty good job.

Fry: At any rate, I just thought we might get a lead from you on things that we could look for in the papers, if you had done any work on Samish's activities.

Brown: No. I don't think I ever went after Samish as a lobbyist or a contributor to the campaign. When I was attorney general, I did persue a very vigorous investigation against Bill [William G.] Bonelli, one of the members of the State Board of Equalization that was a close friend of Samish's, whose name you'll probably run into. He was down in Los Angeles, the Fourth District, and was a member of the State Board of Equalization down there. There were charges of graft and corruption in the granting of liquor licenses. We had covered that investigation and I put a young attorney on it who's now on the State Board of Equalization himself--Bill Bennett; he was the prosecutor in that case. We went after that, and Samish's hand was all around it.

Fry: Did you ever establish any connection?

Brown: Not corruption as far as Samish was concerned. Samish was a big contributor to legislators and political candidates. He always gave it in cash, and he had certain of the key legislators, like Sam Collins and some of the others that were the leaders of the legislature. But I never could pin down a bribe to him.

To show what a small town San Francisco is, though, my oldest daughter, Barbara went to the Convent of the Sacred Heart, and one of her close friends was a girl named Joanne Samish who was the same age as Barbara. Joanne and Barbara went to school and they'd come over to the house and everything else. But Artie Samish would never go to any of the affairs at the school or anything because of the notoriety that he had. Her mother would be there. That was his daughter, Joanne Samish.

But this shows you that in San Francisco, this liberal town--it was difficult to be a tough district attorney.

Fry: And to be a real crime-buster.

Brown: To be a crime-buster but yet to be a little bit tolerant about conditions. In other words, somebody said to me, "Don't try to clean up San Francisco all at once. If you do, the people of San Francisco will regurgitate, and they'll throw you out with it." So I'd wait for an incident.

Like on the abortion--no, on the abortion we didn't have anything. The abortion we had to go after because we felt they were corrupting the homicide bureau. The abortionists, whether they killed anybody or not, were under the jurisdiction of the homicide squad. We had evidence, although we could never prove it, that the police were getting this four hundred dollars a day. We found a document with "Police: $400" or "Protection: $400." So we had to go after them on that.

Fry: But that was a narrow line to walk.

Brown: And I knew a lot of the people. Like Pete McDonough, who was supposed to be the fountainhead of corruption. Before I ever got into politics, he had lent my father money, they'd gone to school together, to the Spring Valley School in San Francisco. And they afterwards named him as the fountainhead of corruption.

He used to have lunch every Friday at the Exposition Fish Grotto. Every Friday all the Irishmen would go out there and eat fish on Friday. I walked over to this Pete McDonough one day. I was friendly with them all; I knew them, no matter who they were. I walked over to him and said, "How're you doing?" He said, "Fine. I just want you to know your father would turn over in his grave if he knew what you were doing in San Francisco." [Laughter] I'll never forget him saying that. He'd had a few drinks.

I said, "I'm sorry." But you can see the attitude.

Attorney General Cases

Brown: I'm very proud of the fact (I shouldn't even note it) that never at any time was there any question of corruption or bribes in any of my administrations--not only by me, but by any of my deputies or any taking of any money for rendering opinion. That was one of the things I was most proud of. I must have raised $15 million in the three campaigns for governor and attorney general at various times. I got an awful lot of money in those campaigns. I suppose some of the

Brown: people that raised the money got preferential treatment in some categories of government, but if so, I don't know where they are.

Fry: I am interested in that cleanup of the liquor control board.

Brown: I'd have to refresh my recollection on that. I would talk to Bill Bennett about that. That was during the Warren administration too, or maybe it was the Knight administration.

Fry: It started during the latter part of Warren's last term as governor.

Brown: Right, right. And I hit that with everything I had. Some of the lawyers that were defending these various individuals in this liquor investigation, who were going before grand juries and things, complained bitterly about Bill Bennett being absolutely obnoxious and unfair. So I checked into it with some of the other people, and they said he was; he was just as nasty as could be.

So I pulled him off the case and put a man by the name of Tom Martin who was my chief deputy. I put him in charge. I'll never forget Bill Bennett telling me, "God, I'm on the two-yard line ready to cross and you take somebody else to push it over."

But later on, I put Bill Bennett on the Public Utilities Commission. First I asked the Commission to name him chief counsel and then I put him on the commission itself.

One other thing that I may have forgotten to tell you that should be in here--these things jog my memory a little bit. When I was attorney general, a man came to see me, and I think his name was Fish; I'm not sure. He represented the Pacific Northwest Pipeline. He said that he had natural gas from Canada, and that they were serving Washington and Oregon, and they wanted to enter the California market, and they'd be in competition with El Paso Natural Gas, who had an absolute monopoly on natural gas in the state of California. He said, "I wish you would help me before the Federal Power Commission, as the chief lawyer for the people of the state, to bring in this new pipeline." I said, "Let me look into it," and I made some inquiries. I talked to two or three people, talked to the people on the Public Utilities Commission. They decided that we would need another gas supply and that competition would be a good thing.

So I called up Fish and I said to him, "We will enter this case on your behalf. You pursue it, but we'll file an amicus curiae brief. We were preparing the case, ready to go, and

Brown: I'd assigned Bill Bennett to it, when all of a sudden I got a call from Mr. Fish saying, "Can I fly out to see you?" (I think it was Fish; it may have been someone else, but for some reason I can't remember that.)

He came out and he said to me, "I want to tell you that we sold our stock at a very favorable price to El Paso Natural Gas, and we no longer want to come into the State of California; El Paso Natural Gas has purchased our company."

So I said to him, "I'm sorry, Mr. Fish, but you convinced me that competition would be good for California. I think you're violating the Sherman Anti-Trust Act. I'm going to get in touch with the U.S. attorney general, and I'm going to ask him to file an anti-trust suit and invalidate this purchase."

He said, "I wish you wouldn't do that."

I said, "But I'm going to do it." So I called up U.S. Attorney General Herbert Brownell, whom I knew, and I gave him the facts. He assigned it to his anti-trust division, and they brought the lawsuit. It started about '57, I think, and it wasn't finally decided until two or three years ago. It was in the courts about fifteen years before the decision for invalidation.

Subsequent to that (where my motives may be in question) El Paso Natural Gas tried to get a bill passed (after they'd lost the case) in the Congress of the United States, calling for a legislative reversal of the court's decision. Somebody came to me and said to me, "We want to explain it to you." I was then in private practice. And they explained to me that California now had competition; there were two other companies that had come in since--PG&E had their gas line in, and Transwestern had come in. So there was no need for any divestment, and this was another source of gas for California. If it was broken up, it would hurt the California users of gas, that they ndeed it.

I called up Mr. Tuttle, who is now a member of the California Energy Commission, and I also called up a fellow named George Grover, who was on the Public Utilities Commission (one of my appointees). And they said they thought El Paso was right, that a divestment of Pacific Northwest at this time--thirteen or fourteen years later, where you now have two competing companies--would deprive California of a gas supply. There was now sufficient competition, and therefore the Congress should reverse the Supreme Court ruling. So even though I started it back in 1958 or '57, I went before the Congress on two or three occasions and testified in favor of El Paso Natural

Brown: Gas. I received no fee for that; I was afraid they'd say I changed my opinion because I was getting a fee for it. They did pay my expenses, but they never paid me a fee.

[end tape 1, side 2]

Review of California Water Cases

[Interview 3: April 7, 1975]
[begin tape 1, side 1]

Fry: I have one or two pick-up questions from our last session. We didn't get to talk about your being on the board of the Water Project Authority with the state engineers, Edward Hyatt and Mr. A.D. (Bob) Edmonston.

Brown: Hyatt was gone when I got up there. Edmonston was the state engineer.

Fry: They were opposing the Central Valley plan, so I wonder how you got along with Edmonston in that.

Brown: They wanted to build the project themselves; they wanted California to build a project itself. I got along with them all right. The board was composed of the treasurer, the controller, the state engineer, and the attorney general.

Fry: Did you try to convince them at that time that the state couldn't bear the expense?

Brown: I can't remember what we quarreled about. There were some things that I differed with them on, but I can't remember where I took issue with them. I think it was the King River Dam.

I got into the water issues very intensively when I was attorney general, and I would meet with Earl Warren from time to time and give him my views on it and ask for his. There were two or three disputes. We talked about them some during our previous session. You had Arizona vs. California, which was a dispute over the quantum of water that each state should get under the Colorado Water Project Act. And then you had the Ivanhoe Irrigation District vs. All Persons, which involved the validity of the contracts entered into for the

Brown: delivery of water by the Bureau of Reclamation to water districts in the state of California, because they all contained the 160-acre limitation. It was the contention of the water users--the big property owners in the state--that it was unconstitutional. The big landowners claimed that under the law of the state of California all water had to be distributed equally or equitably amongst all of the landowners. They felt that if the water contracts were declared invalid or unconstitutional under California law--in other words, so that the California water districts couldn't enter into such contracts with the Bureau of Reclamation--that Congress then would have to change the law and they'd have no other place to sell the water. So that was their strategy.

I didn't want the courts to hold it was unconstitutional because I wanted California to have the elasticity to enter into a contract or not enter into a contract with the federal government. If the opponents of the acreage limitation and the opponents of the contracts offered by the Bureau of Reclamation prevailed, then California constitutionally could not have entered into the contracts with the Federal Bureau of Reclamation. I wanted to give them the choice either to enter into it or not enter into it. That was the position I took as attorney general. I changed the position of my predecessor, Howser, who'd been the attorney general before me.

I explained all that to Earl Warren, and Earl Warren backed me up one thousand percent, although his state engineers and other people did it reluctantly. I think Bob Kirkwood was the controller then, and Bob was a man I respected. As I think I said before, Warren and I would go over to the Del Paso Country Club when I was attorney general, and I would explain my legal position. He went along with me.

We had another dispute. We had a dispute in the Rank vs. Krug case. That was the question of how much water had to be released under the Central Valley Project at the Friant Dam in Fresno. We had certain people who wanted more water released so that the fish "wouldn't get sunburned," (to use an expression of Abbott Goldberg.) We were trying to preserve the integrity of the Central Valley Project; that was my object as attorney general. The big landowners wanted to destroy it so that California law would be supreme, in order to invalidate the acreage limitation.

Then we had another case on the Kings River. If the dam were built as a flood control dam by the Corps of Engineers,

Brown: instead of by the Bureau of Reclamation, then there wouldn't have been any acreage limitation. All these things are a little bit difficult for a layman to grasp, and I don't know whether they're relevant to what you're trying to do with this oral history.

Fry: Yes, it is, because of course we've had other people talk to us about these cases, like Professor Paul Taylor.

Brown: In the Kings River controversy, my office wanted to go along again with the federal government. This was a partisan dispute. The Democrats wanted the federal law and the Republicans wanted to make the state supreme. I wanted a cooperative movement between the federal government and the state. I didn't think we could afford to go it alone; I didn't feel there was enough money in the state of California to build that whole water project alone. I felt, in view of the fact that California was growing and the people were coming in from all over the state, that in the next twenty years we'd have maybe six or seven million more people that came in from other states, so that the whole country should share in the development of California. And we needed water for agriculture, and we needed the water for cities, and for flood control.

That was my concept, and I pursued that course practically alone. I was advised in the attorney general's office by Abbott Goldberg. He was my principle advisor on water law. He convinced me and the attorneys on the other side--what was the name of the fellow who was in the Arizona vs. California? Northcott Ely--"Mike" Ely, and then there was another attorney, Arvin Shaw. We thought he was a stupid old lawyer. I had these bright young men in the attorney general's office re-examining this thing, reading all the briefs. And they just concluded that it was wrong. So we worked very closely with the U.S. attorney general's office and the individuals who were handling the water case. But you really ought to talk to Abbott Goldberg about this. He's a judge in Sacramento County now, and during those first three of the Warren years and all of the Knight years, he was really the architect of the California Water Project.

Bob Edmonston got hold of me one day, and I can remember it just as clearly as you're sitting there now. As we came out of the state building up in Sacramento, he said, "Let me tell you something. If you want your name to go down in history, if you're elected governor, you build the California Water Project. It's absolutely necessary. It's feasible and possible. You build it."

Brown: That made a great impression on me. It was one of the things that, as I ran for governor, I was determined to build--that California Water Project. I think I explained in the other session the fight between the two, between the North and the South.

Fry: Yes, you did.

Brown: I went into that quite fully. And I thought there would be a uniting influence too if we got this water project behind us. Before that, there were all sorts of quarrels between the North and the South. I thought it would have a good effect if Northern California, with their flood water, sent them down to Southern California.

It was a bitter fight--in 1960--when that water project finally went over.

Fry: Right, and we need to explore that story, perhaps in a session devoted to it. In the Arizona case, were you familiar with Preston Hotchkis's role in that?

Brown: I think Preston Hotchkis was on the Colorado--

Fry: Southern California Colorado River group.

Brown: Yes. He was a very active right-winger. Very conservative. He went along with Mike Ely, and they were determined to defeat Arizona. You'd think that Arizona was a foreign country, the way these people acted (between you and me), whereas I wanted Arizona to grow; I wanted really to drain off some of the people coming to California! You see, I was probably more of a statesman than I was a lawyer. At any rate, I fancied myself a statesman rather than a lawyer, because I was interested in seeing Arizona grow too.

We had other sources of water in California. Arizona had no other source other than the Colorado. So I wanted under the Colorado River compact to get all that California could, but I wanted to try to work it out in some way, because there was the Central Arizona project too that was to be built by the federal government, and they had to have X acres of water in order to build the project. I really was not fighting for California as hard as an attorney should, although I went along, but in confidential meetings among the lawyers, I always would ask the question, "Why the hell don't we give this water to Arizona to build their project?"

Brown: Mike Ely will tell you that he never felt that I was sympathetic to him in these water cases, but he'll have to agree that he was never restrained. In other words, he went full steam ahead, although in private conversations I'd ask him the question, as I said before.

But I argued, in a statement prepared by Mike Ely on the matter before the referee, a special master, Simon Rifkin, appointed by the Supreme Court. I made only the opening statement and sat there for three or four days. But it went on and on and on, and I would have had to have left the attorney general's office completely to handle that case.

But I was fully familiar with it, and really, by the time I left the attorney general's office, I was a fair-to-middlin' water lawyer. We'd written opinions, too. Abbott Goldberg participated in the county-of-origin water opinion that held that the counties of origin had the right to pull back the water if they ever needed it in the future. I don't know whether he wrote it or not. This was a very important opinion of the attorney general (written in our office) and it was really the foundation on which I was able to convince Southern California and the Northern California people to go ahead with the California Water Project.

I argued to the South that the opinion didn't mean anything because the counties of origin were not defined, and even if they were defined you couldn't use it. And I argued in the North that they were protected by it. I was really very deceitful. But I wanted to build a project.

Fry: You were in the role of mediator really.

Brown: I was in the role of mediator. I think that's right. Trying to resolve the dispute, trying to compromise. I was the Henry Kissinger of the water project. [Laughter]

Fry: Then I had a thing to pick up about you and Warren which I got out of your attorney general scrapbooks here that I've been going through. You may remember the case of a social worker named Alfred R. Crewe, who extorted payments in San Francisco from a Mrs. Johnson, who was running a rest home and who was a pardoned murderer. She bribed him, at fifty dollars a piece, for sending twenty-four elderly patients to her rest home. She wrote to Governor Warren about this complaining in July 1951. Warren, instead of forwarding this to your own office, as one might expect, gave it to his own men in the office--James Oakley and Oscar Jahnsen--and

Fry: they did the investigation on it. At the time of the news accounts in your scrapbooks, he was forwarding it all to you then, but that was December. I wondered if this had any significance in the relationship between you as attorney general and Warren as governor.

Brown: December of what year?

Fry: '51. So Warren had it for about six months in his office before he finally forwarded it to you.

Brown: I have no recollection of it at all.

Fry: All right. I thought maybe I had gotten onto a rather significant evidence of relationship between the governor and the attorney general. I just can't imagine why he'd put his own staff on the investigation.

Brown: Well, maybe because it was a welfare fraud or maybe because the woman was a convicted murderer.

Fry: He had pardoned her, apparently.

Brown: He had pardoned her, and Oscar Jahnsen had been the chief investigator in his Alameda County District Attorney's Office, and James Oakley had been one of his chief prosecutors and had gone with him into the attorney general's office as the chief assistant. So maybe he just wanted to find out about it himself.

Fry: Okay. If it didn't grate on you at the time enough for you to remember it--[Laughs]

Brown: There were no memos or anything on the thing?

Fry: There was nothing else picked up in the press clippings in your scrapbooks about this. Maybe there are memos in your other papers at the Bancroft.

Brown: I have no recollection of it at all; I have no recollection of the case whatsoever.

Hunting With Earl Warren

Fry: The other thing is that we really didn't record very much about

Fry: your experiences hunting with Earl Warren. How often did you hunt together?

Brown: We'd hunt once a year. I think we did that after I was governor; I don't think I ever went up there with him while I was attorney general. This was at Wally Lynn's ranch. By the way, have you interviewed Wally Lynn?

Fry: Yes.

Brown: Wally was the closest friend in the world--very, very close to Earl Warren. We used to hunt once a year. We'd go up there on a Friday, and I'll never forget, Wally Lynn would get this cracked crab, and it was delicious. And Warren would always have his boys with him and four or five of his old close friends from Sacramento. He had [Bartley] Cavanaugh, the former city manager; and he had the federal judge, [Phil] Wilkins; and Tommy McBride would come over occasionally, and the three boys (Earl and Bobby and Jim) would come up. Then we'd all hunt.

I'll never forget one occasion. Earl Warren was a pretty good shot. I was a terrible shot, but he was a good hunter. Finally we were in the goose blind, and two geese came down--I'll never forget it as long as I live--and bango! I got up and shot, and they were both close together, and I got a double-header. I looked around, and Warren had sat down, he'd let me take the shot. I thought he'd gotten them because we'd shoot together sometimes. But he had let me take that shot. As a result, it gave me, of course, a great deal of joy to get a double-header with the geese. It was really something to shoot those two geese, bang, bang , bang.

It was very, very pleasant. We talked about everything. We played poker afterwards. Earl Warren played a good game of poker and played it with intensity. Earl Warren was a great sportsman, he loved to watch football games, baseball games. He was a great follower of tradition, too. Warren would always go to the Santa Barbara fiesta when he was governor; he'd always go to the Rose Bowl game and parade; he'd always go to the Shrine game.

One other thing. After I was governor, he would always come in unannounced. Whatever I was doing--no matter what I was doing--when Warren came up there, he was immediately shown into the governor's office. We stopped everything else we were doing. I believed that since he was the chief justice and the former governor, I had kind of a feeling of a

Brown: governors' union--Republican or Democrat didn't make any difference.

I assigned a highway patrol car to him whenever he came into the state so that he had a driver. We didn't think in those days in terms of protection. There wasn't any question about being protected. He and I would both walk from the executive mansion to the state capitol and talk to the gardeners and things like that, as distinguished from Reagan who always had guards around him and was never alone for anything like that.

On those hunting trips, though, we'd go up on a Friday night and we'd come back late Saturday afternoon. Warren also, on some of these trips, would visit an old man who had gotten him started in politics who was in a rest home. He'd stop on his way up to visit this old man. He was a very, very thoughtful man about things like that.

He was never too busy, so busy that he couldn't leisurely talk with you. You never had a feeling when you were with him that you had to get out in a hurry, like I am. I was never able to capture his relaxed way. He was much more deliberate and planned much more than I did.

Correspondence With Earl Warren

Fry: I showed you two letters* that indicate that you had an appointment to talk to him in December of 1943, right after you became district attorney. It looks like you had a good long afternoon with him--December 22, 1943.

Brown: Let's see--he was elected in 1942.

Fry: So this was just before each of you took office?

Brown: He'd left the attorney general's office and had been governor since the election of '42, a year when I wrote this letter. I hadn't taken office yet; I didn't take office til January of 1944. So I went up there and talked about the district attorney's office.

I'll never forget one thing he said to me. He said, "We'd always ask ourselves two questions when a case came in. Number one, has a crime been committed? Number two,

*See Appendix I.

Brown: is there a reasonable chance to convict the person charged?" These were the two cornerstones of his prosecution.

Fry: I think we have that from your previous interview.

Brown: I think you have that too. I think in addition to that, I told you about how he told me about how he got those grafters in Alameda County. He went into great detail on how he would take a case to the grand jury. And when I became district attorney, I used some of these methods; some of them he subsequently outlawed himself when he was chief justice of the Supreme Court.

Didn't I tell you about the way he would--although the penal code made the proceedings of the grand jury secret--

Fry: Oh, yes.

Brown: He would come out and give the story to the press himself because he wanted to build up public feeling against the crooked sheriff and the paving scandal grafters and things like that. At the time, I thought it was really going too far.

Earl Warren and the Death Penalty

Brown: But he was a tough prosecutor. Whoever studies the life of Earl Warren will have to see that a change took place in him after he became governor of California. He began to realize, when you're up on high and looking down, that things are a little bit different, although I don't think during the eleven years that he was governor that he commuted more than one or two prisoners condemned to die. He believed in the death penalty. When a person reached the end of the road, he didn't commute them.

I had one case of a man that found his wife cheating on him, and she persuaded him to take her back. He caught her again with another man at a motel. The husband and the other man met at the husband's place of business, a butcher shop. A quarrel ensued and the other man was killed.

Warren set up a system where the attorney general would make a report on these death penalty cases. When I saw the report of my investigators, I didn't think the man was guilty

Brown: of first degree murder. I thought that at most it was done in the heat of passion. The drinking seemed to be the result of his wife's affair. I went up to see Justice [B. Rey] Shauer of the state supreme court. Justice Shauer was also a very tough judge on the death penalty. He had written the opinion in this case. I persuaded him that the facts did not justify the death penalty. So Shauer wrote a letter to Earl Warren and so did I, and Warren commuted this fellow from death to life.

I think there was only one other case during the eleven years he was governor that he commuted. Every other person that got the death penalty during the Warren administration was executed. But that letter I wrote to him must be available some place, either in his files or mine. I can't remember the case; I remember it was out of Fresno County.

V BROWN'S LEADERSHIP IN THE DEMOCRATIC PARTY, 1950-1958

Opposing Governor Knight on the California Water Project Constitutional Amendment

Fry: Let's move into the topic of you and the Democrats when you were attorney general. You seemed to be in a position of leadership because you were the only statewide office holder [laughs] who was a Democrat. I thought this may have put you in a special position in the legislature.

Brown: It did. I worked very closely with the Democratic legislature. Going to the end first, I worked with Bill [William A.] Munnell [Los Angeles assemblyman], who was the Democratic floor leader, and we really thwarted [Governor] Knight in his efforts to build the California Water Project. He wanted a constitutional amendment, and I really didn't think that was the way to go about it. I didn't think they could ever write a constitutional amendment in the first place, and in the second place, I didn't feel it was necessary. Water officials throughout the state felt that a constitutional amendment was necessary.

The South wanted a guarantee that if they built the project, they'd get their water in perpetuity, and the North wanted to be sure that if they ever needed it, they'd get it back. Well, you couldn't write a constitutional amendment to that effect. They never could agree, the North and the South. So later we just decided to build it without it. But in the last years of the Knight administration, we opposed him.

Reforms in Mental Hospitals

Brown: I also had an investigation, at one stage of the game, of the mental hospitals. I put a couple of investigators inside the mental hospitals. It was quite a sensational report, as I remember it; it hurt Knight. I never would have done that to Earl Warren, but I did do it to Knight, and I think if I really explore my own inner feelings, I was trying to build myself up--as I look back on it now--as attorney general, more than to knock the Republicans down. I was really using the power of the attorney general's office.

It was a good thing to do; I don't mean that I contrived this. I think someone came into the office and told me about the conditions in Camarillo State Hospital. If it were Warren in the governor's office, I probably would have told Warren and told him what I was going to do so that the investigation would have been joint.

Fry: Before that, there was a press story, when Warren was still governor in '51, that you led the fight to restore a two million dollar cut from the mental hospitals' budget.

Brown: Did I?

Fry: So you already had a history as a standard bearer for the mental hospital cause, it appears.

Brown: When I was attorney general I would have people come in who thought I could exercise some political influence to get retarded children in the mental institutions of the state--friends of mine that were sent in to me. I could occasionally, by showing an extreme case, get the head of the department to leap-frog some of those that were on the waiting list. So I made up my mind that when I became governor that, by golly, every retarded child that should be an institutional case would be able to get into an institution. And we did. We worked it out. Although I found out later that those on the waiting list were just the tip of the iceberg; there were many others.

Heading Delegation Against Kefauver, 1952

Brown: But I tried to take leadership, and the Democratic party

Brown: in the state gave me that recognition. In 1952, before the presidential election, I was over in Hawaii--I'll never forget it--and Truman had just withdrawn. It was late in March.

Fry: Yes, March 19.

Brown: March 19, and the filings closed on March 28, and they didn't have anyone to run for the presidency of the United States in California, to make a rival delegation against Kefauver, who had already announced. I had to tell them I would put my name in, and then come back and sign the paper. Then I had to campaign against Kefauver. Well, Kefauver defeated me three to one; it was one of the worst defeats I ever took in my life. Or two to one I guess it was.

But I enjoyed campaigning. I went up and down the state campaigning. I didn't campaign very hard, between you and me, but I did debate Kefauver at two or three meetings and enjoyed it very, very much. But I had really no grasp of national affairs then; I'd only been district attorney and attorney general. But they came to me for leadership. Bill Malone was then the Democratic leader in San Francisco.

Fry: Is he the one that came to you?

Brown: He was the one that called me and asked me to become the nominal candidate for the presidency, which I agreed to do. In 1952, even though I was defeated by Kefauver and his delegation went to the Democratic convention in '52, I was there and supporting Adlai Stevenson because Adlai Stevenson had made a speech at the Town Hall in Los Angeles, and I thought it was one of the greatest speeches he ever made in his life, one of the best he ever gave. I was so impressed with Stevenson that I immediately became a Stevenson man. He and I became very close. When he had to write a speech, my secretary, Adrienne Sausset, went to his room that night and he dictated the speech. We were very close; Stevenson and I became very close. In 1952, that was the first trip he made out here. So I was the chairman, I think, of his campaign in California.

Heading the Adlai Stevenson Delegation, 1956

Brown: I was the favorite son candidate for the presidency again in

Brown: '56. But everyone knew that I was for Adlai Stevenson. They knew that I was his representative, and I went back as the chairman of the delegation in '56. I think that's the place that I had developed laryngitis, which I've never had before or since. It was my opportunity for a place in the sun, to make a speech and even to announce the California vote, and I couldn't talk! [Laughs] It was like a pitcher losing his arm in the world series. The air conditioning on the train, I think, caused it. I tried everything in the world, but I couldn't talk. The damndest thing you've ever seen in your life! So I had to sit back and have somebody else make the announcements.

I'll tell you another thing about the '56 convention that I've never told anybody. (Well, I think I probably told a few other people.) The fight for the vice-presidential nomination was between young Kennedy, the senator from Massachusetts, and Kefauver. I was the head of the California delegation. On the first ballot, no one got a majority. So they started the second ballot. I had talked to Kennedy and Bobby in their apartment and told them that I was for them.

But then I thought to myself, "Stevenson is not going to defeat Dwight Eisenhower. He's going to take a shellacking," even though I thought Stevenson was by far the better man. And I thought Kennedy would be a good prospect for the years ahead for the presidency. (This was my own thinking.) I was a practicing Catholic at the time, and I didn't want Stevenson to be shellacked and then have them blame the Catholic factor of Kennedy's vice-presidency for his defeat. I thought that Kennedy would do better later if he didn't go on this losing ticket.

So when the time came--we had to count the people very fast in the caucus right on the floor--and I counted it incorrectly.

Fry: Your delegation vote, you mean?

Brown: My delegation. I think we had eighty-nine or ninety delegates, and you had to count them very fast to keep up with the roll call. So I went bang, bang, bang, bang, bang, like that, counting, and I gave it to Kefauver because I wanted Kefauver to get the nomination over Kennedy.

You couldn't tell which way it was going; you couldn't tell whether Kefauver had more votes than Kennedy in the

Brown: California delegation. It just couldn't be done. But whatever they were, the figures I announced [laughs] were my own figures; they were not the true figures, because you couldn't count. It was just impossible. I think I gave it 62 for Kefauver and 30 for Kennedy or something like that. It was probably correct but no one was sure.

I repeat: I didn't want Kennedy to be hurt. I felt he had a great future. Now it was really duplicitous on my part, but I was sincere in wanting to save Kennedy for 1960. Later I supported Kennedy for the presidency from the very beginning, although I never got credit for it. That was in 1960, after I became governor. People didn't know that, but I gave Kennedy tremendous help as Democratic governor of California. I really did as much as anybody in the United States. But I can tell you that story later on.

I accepted the role of being the Democratic leader from '50 to '58, when I was elected governor. I was active, with Paul Ziffren, in the formation of the California Democratic Council and lent the prestige of the attorney general's office to it. I'll never forget going to the convention and making a speech.

Fry: Which convention?

Brown: The opening convention of the California Democratic Council. I'll never forget, I made a crack. I didn't mean to do it; it was said innocently. It was one of my malapropisms. I said, "Do you know, ladies and gentlemen, how much it costs to keep a woman in Ventura?" I was talking about the Ventura prison for girls--the institution. [Laughter] I was trying to compare the cost of putting a woman on probation to putting her in the institution of the Ventura school for girls. It was funny, the implications that they took.

But I fought hard for the formation. I didn't participate in the mechanics of the CDC because I never had time. I was always impatient; I could never take the time to count numbers or draw up constitutions or to fight over bylaws or things like that that some people seem to get a great deal of pleasure out of. I was interested in the end results.

Fry: To go back and pick up, when you first met Adlai, was that your first time to meet him when he came out here?

Brown: The first time I met him, he came out here to Los Angeles. He was the governor of Illinois at the time, and I think it was

Brown: '52. I think I traveled with him. I think he made a talk to the National Guard.

Fry: That's the one. That was May 9.

Brown: May 9. And then he came down to Los Angeles and made a speech. We helped him with the speech. I think he was staying at the Biltmore Hotel or the St. Francis in San Francisco, and I sent my secretary to help him. (That may have come later, when he was campaigning and he had to make a speech.) I'll never forget, he dug out this old speech, a Commonwealth Club or the Los Angeles Town Hall speech--but it was a great speech anyway. I'd have to see the clippings to recall that.

State Elections, 1954

Brown: I actively worked for the Democratic party. People will never know how I went around the state and tried to build up the Democratic party, from '52 to '58, during that period of time. In '54, when I was running for re-election for attorney general, our candidate for United States Senator was Democrat Sam Yorty against Republican Tommy Kuchel. I won in the primaries by winning both the Democratic and the Republican nominations. I was the last one under cross-filing to carry both party nominations. (Later on in 1959 the Democratic legislature abolished cross-filing. But earlier, when the Democrats were in the majority, they passed a requirement for each candidate's party designation to be on the ballot, like Republican or Democrat. 1954 was the first primary election with party designations known. But I won both party nominations when I ran for re-election as attorney general.)

I'll never forget Kyle Palmer of the Times calling me up and stating that the Times would support me if I would agree to remain silent in the campaign for United States Senator. I said, "Let me think it over," because I didn't really like Yorty anyway then; I always thought Yorty was a demagogue. I didn't like him from--I told you about that Santa Margarita water case?

Fry: I think you did.

Brown: I may want to repeat it anyway. But at any rate, I said, "Let

Brown: me think it over." And I said, "No, wherever I go, I'm going to be going to Democratic meetings." (This was in the primaries.) And I said, "I'm not going to be able to keep my mouth shut. I'm going to have to support the entire Democratic ticket including Yorty. I'm not going to be enthusiastic for Yorty because I don't really like him, and I do like Tommy Kuchel. But I will have to come out for Yorty, and I'm not going to tell you that I won't do it."

So they supported me anyway. I think it was the only time the Times has ever supported me, when they supported me for re-election as attorney general. Of course, I was running against Howser (who they always thought was a crook) and some other dope; I don't know who it was.

I won in the primaries. And then a week before the election I took off for South America, and I wasn't around the night of the election. I can remember being up in the Andes at Cuzco, Peru, way up there at 10,000 or 11,000 feet above, where they have the ancient Inca ruins, when the returns came in. I was with the wife of the publisher of the Santiago or the Peruvian paper; I can't remember which one it was. My wife will remember. And they called down and found out that Knight had been re-elected over Dick Graves, who ran as the Democratic candidate; he had been a Republican until just before the campaign. A good guy, though, a hell of a good guy. And he made a pretty good fight against Knight, too. It shows you how wanting the Democratic party was for candidates when we had to take a former Republican! We just didn't have anybody to run against Knight. Of course, Knight had labor support; he'd become far more liberal in order to get labor support.

They had tried to get me to run for governor in 1954, the group of prominent Democrats. I went over to Ed Heller's house, who was the financial genius of the Democratic party, with Bill Malone. We went over, and we had a delightful dinner, and they literally begged me to run for governor. But before I left, my wife absolutely forbade me to run for governor in '54. She never wanted me to run in '58 either, but she actually stopped me from running in '54.

Fry: Why?

Brown: She didn't want me to run in '54. She just didn't want me to be governor in '54. She really didn't want me to run in '58. She enjoyed me being attorney general.

Fry: One other thing about this. There was a 1950 reapportionment of congressional districts, which was done by the Republicans.

Brown: Yes, and Warren signed it, too. It was a gerrymander for Republicans, yes. It was a very selfish move.

Fry: Yes. I remember that first district took in half of Northern California, it seemed like, because it had all the Democrats' territory. [Laughs]

Brown: Yes. They gave the poor Democrats a bad time. That was one of the justifications for me signing the '60 one when we were in control, and we gerrymandered it too.

Fry: You led the Democrats in protesting this in 1951. According to press accounts, you led a delegation on May 1, 1951, to a hearing at Governor Warren's office.

Brown: Yes, I went in there to oppose it. But he signed it anyway. Of course, he was under a dilemma; if he didn't sign it, it would have been hard to re-write it at that stage. Yes, I led a delegation urging Warren to veto it.

Fry: Do you have something further on that? If not, I'll go on to another question.

Brown: I'm just trying to think [consulting notes]. You've got "very active in the '52 Democratic campaign for the presidency." Wasn't that the time that Warren was really running for president? [Interruption]

Fry: I wanted to ask you to define a little more the difference between the two Democratic delegations in 1952--yours and Kefauver's.

Brown: Mine was the regular organization. Mine were Bill Malone's and the congressmen and the people that had led the Democratic party in California for all of these years. The Kefauver delegation were a group of mavericks. They had <u>some</u> in their delegation--you'd have to get the list.

Fry: The Northern California head of Kefauver's was George Miller.

Brown: Yes, George Miller, who was the state senator, and there was a woman who later became Democratic national committeewoman. She's given her papers to the University of California.

Fry: Clara Shirpser?

Brown: Yes, Clara Shirpser. Clara Shirpser was the leader for the Kefauver group. It was a very friendly thing; there was never any bitterness. But we knew that Kefauver would never get it; we knew that he'd never get it even if he won California. So I went back there to the convention with some degree of egotism because I thought we'd put Stevenson over, and I did everything I could to get Stevenson elected.

Fry: I remember the dramatic moment when Kefauver stepped to the convention microphone and withdrew at the convention. [Chat about both being present at the convention] The other thing I was wondering about was earlier in 1952 when Truman dropped his bombshell, saying that he wanted to be dropped from the ballot: in California there were a lot of frantic meetings held by Democrats in the next twenty-four hour period. I wondered if at that time there was an effort made to get your group of Democrats to unite with the Kefauver group, even though Kefauver would have been the head of the ticket, and use that as a stronger bargaining power for Adlai when you got to the convention.

Brown: I can't remember anything like that going on. We had had all our petitions out to get Truman on the California ballot. Then Kefauver defeated Truman, I think, up in New Hampshire, and I think that was the trigger--that Truman thought of history and said, "I'm not going to run again." He made it in some nationwide broadcast. But I can't remember any effort to merge because this was a part of the Miller-Shirpser forces and what you might say the extremists--the left-wing group of the Democratic party trying to take over. Miller had been a candidate for lieutenant governor in 1950; he was on the same ticket in 1950 with Jimmy Roosevelt.

Conversion to Truman, 1948

Brown: By the way, going back into the '50 campaign for governor, where Jimmy Roosevelt was running against Earl Warren--

Fry: That was awfully sudden for Roosevelt to take the position of leadership like that, after he had backed Dwight Eisenhower against Harry Truman in '48.

Brown: That's right. I supported Roosevelt in '50, but with my fingers crossed. I never really trusted him. I had written a letter in March of '48 to Jimmy,* and he released it to

*See Appendix II.

Brown: the journalist, Mary Ellen Leary Sherry. Do you know her?

Fry: Yes. The Bancroft has her papers, too.

Brown: And she got ahold of the letter. It was a letter where I really denounced Truman to Jimmy, who was our national Democratic committeeman at the time. I denounced him up and down in this letter; it was a strong letter against Truman. I really tore Truman apart. That shows you how I change.

There was a big Jefferson-Jackson Day dinner in Los Angeles in '48, and J. Howard McGrath came out for it. There was one in San Francisco and one in Los Angeles. But when I went down there and I found out that Jimmy Roosevelt was trying to promote Eisenhower, I told Howard McGrath about it, so he was prepared for this deceit on the part of Roosevelt. Well, Roosevelt got so mad at me that that's when he released this letter to show that I too was against Truman.

I'd written him the letter telling him that we had to get another candidate other than Truman. But that was early in February, I think.

Then Howard McGrath came out here and told me that they weren't going to dump Truman; I mean, you can't dump an incumbent president if he wants to run. It's just out of the question. I had an opportunity to meet Truman, and I liked him after that. I decided, that's the way we've got to go. So I disappointed Truman.

But I never trusted Roosevelt again after he released that confidential letter that I had written, even though he had good reason, between you and me, for releasing it, because I had really double-crossed him in not going along with his Eisenhower thing. (I'd have to see these things in my papers to give you more detail.)

Later on, I became one of the few guys in '48 that really campaigned for Harry Truman up and down the state. I'll never forget the night of the election of November '48 here in San Francisco, where I was Northern California chairman. We didn't have much of a campaign going in California. We had very few people in the campaign headquarters; everybody thought Dewey was going to win. Then, that night, the doubtful and the skeptics rolled in to share in the victory of Truman. It was a great victory.

Brown: I'll never forget how Truman just fought, never retreated one iota. My admiration for that man is as great as it is for anybody because of the way he never quit. All the odds were against him, the Democrats didn't think he could win, and the country had been in a recession, if you remember.

Where I really went for him was at the 1948 Democratic convention, where one of the greatest speeches I ever heard was made by Alben Barkley. Barkley--I'll never forget--talked for an hour without notes, and it was a truly great speech. Then Hubert Humphrey made a great speech too: "we'd better move out of the states' rights into the rights of man," talking against racial segregation.

Then Truman got up and made an acceptance speech. I became emotionally involved in the campaign itself. It was just tremendous. I don't think I've ever been through a campaign, other than my own, that I enjoyed as much as the campaign for Truman in 1948. It started somewhat from a low point, me being against him, then getting to be for him, and going to the convention--but the departure was changing my attitude. It shows my emotional character, because I really left that convention all worked up over these speeches--the three of them Barkley, Humphrey, and Truman.

Fry: Who else were the major hard workers in Truman's campaign in California?

Brown: Bill Malone was always a stalwart in Northern California. He was the Democratic Northern California chairman; he was a stalwart. Down here in Southern California, Ed Pauley was very forceful. And there were some old-time Democrats who had received jobs from Roosevelt, going back to the Roosevelt days, that were the regular Democrats. They were really not philosophic Democrats; they were really, you might say, the machine Democrats: they got their jobs because of it. And in a great many cases they were far more conservative than either Roosevelt or Truman. The postmaster and the U.S. attorney and the judges and people like that. Sheridan Downey--was he around in '48? I can't remember.

Fry: Yes. He didn't go out of the picture until '50.

Brown: He didn't? When he was defeated by--

Fry: Well, he decided not to run.

1950 Campaigns

Brown: Yes, that's right, he didn't run. That's when Helen Gahagan Douglas ran, and she defeated Ellis Patterson, I think.

Fry: In the primary, she defeated Manchester Boddy. I was going to ask you, how did he get on the ballot. [Laughs] Who put him up to run against Douglas?

Brown: He was the publisher of the Los Angeles News or something--some little paper down here--and just got his signatures, that's all. He denounced her, too, after the primary, and came out for Nixon.

Fry: And then later on, it turned out that his newspaper had been getting about $250,000 a year from Nixon.

Brown: Oh, yes! That's right.

Fry: So I wondered what caused him to be put on the ballot.

Brown: He had a group of the conservative Democrats that didn't like Helen Gahagan Douglas. There was a third person that ran that time too, it seems to me. I'd have to get those ballots to refresh my recollection.

Fry: I think it was just Helen Gahagan Douglas and Boddy, and he really initiated charges about Helen's "pinkness" that Nixon then took up in the general election.

Brown: Yes, yes.

Fry: About '48, I wanted to ask you about Susie Clifton's part in it.

Brown: She was very active and very good, too. She was Jimmy Roosevelt's gal. I mean, in the political sense. [Interruption] She was a very, very clever technician, Susie was, damn good political strategist. Very, very good. What part she took in the finals and the Truman campaign, I don't know. And a hell of a nice gal, too.

Some of these things, I'd have to refresh my recollection on: the Warren campaign in '48; his coming to the district attorneys' convention in Tahoe--I remember I told you about that.

Fry: Yes. In the '50 campaign, when you ran for attorney general, I'd like to pick up a few things on that. [Democrat] Roger Kent tells us of ads put in by you (and your brother, Harold) in the first district, saying, "Vote for Warren for Governor, Kent for Congress, and Pat Brown for Attorney General." And then Warren's man, Vic Hansen, down here in Los Angeles, told us about an ad that came out somewhere here in the South endorsing Earl Warren for governor and Brown for attorney general. Now, did you arrange for these ads?

Brown: Yes.

Fry: And did you talk to Warren about them in advance?

Brown: Yes, I talked to Warren about them in advance.

Fry: Didn't he tell you not to do it?

Brown: No. I wouldn't have done it if he opposed it. No, he was angry at Ed Shattuck, as I've explained. He didn't like Shattuck, who was my Republican opponent. Shattuck had written some nasty letters about Warren, calling him a king-maker and everything. So I talked to Warren about it. I know he didn't disapprove; I wouldn't say that he approved, but I wouldn't have done it if he got word to me through some source. (I don't know where it was or how it came out; it may have been through some of our mutual friends.) But I would not have run the ads if he were going to repudiate them. We ran great big ads, and I'll tell you where we got the money for that too. We got the money from Norton Simon; he gave us ten thousand dollars.

Fry: From the ads? Or for anything?

Brown: For anything. We got it, though, in the last couple of weeks of the campaign. I remember him giving us the money in cash. I had not seen Norton Simon for a long time. He and I had gone to Lowell High School together, and we were fraternity brothers. As a matter of fact, although fraternities were outlawed, they existed, and I organized this one; it was the only fraternity at Lowell High School that was non-sectarian. We brought Jewish people in and Gentiles. There were two or three other fraternities; one was called the Enoia, but they wouldn't take any Jewish members. They were like college fraternities that would bar people by reason of their creed or race. But when I found out that they wouldn't take Jewish people, I wouldn't join their fraternity, so we organized our own. Norton Simon was a member of that

Brown: fraternity. So he and I were very, very close.

Fry: At any rate, you knew that Warren wasn't going to denounce those ads, and that was the important thing.

Brown: Right.

Fry: Can you tell us anything about how you set up your organization?

Brown: You mean my political organization?

Fry: Your political organization in '50 and what it was based on.

Brown: I had two people down here. I had William V. O'Connor (who was the nephew of Judge O'Connor) and Frank Mackin, who had been my law associate in San Francisco, who was then with McIntyre Faries' firm. McIntyre Faries was one of Warren's closest friends and was really a Republican, and Mackin was in that firm. Then, in addition to that, I had--

Fry: McIntyre Faries was the Republican national committeeman around that time.

Brown: Yes, and Mackin was in his firm. Then I had another fellow named Prentis Moore, who I met through Bill O'Connor, and I got a pretty good group of lawyers down here to support me; I had a good lawyers' committee. I'd been district attorney in San Francisco and I'd been president of the District Attorneys' Association, so I had a lot of the D.A.'s around the state supporting me too; they helped me in all the other counties.

Fry: I have in my notes that labor endorsed Frederick N. Howser for attorney general in that campaign.

Brown: In '50?

Fry: Yes. It was in a newspaper story. Was that right?

Brown: Yes, they endorsed him in the primaries, but endorsed me in the general election. But Howser was in such disrepute that it didn't mean anything. I was very close to labor, but they always endorsed an incumbent, and he'd probably helped them in some of their labor disputes and things like that when he was district attorney. When we were both running, I the district attorney of San Francisco and he the district attorney of Los Angeles, I think they supported the both of us, as I remember; we got a joint endorsement. But he had more people down there, the greater population for him.

Brown: In '50, if he got the endorsement in the primaries, I got it in the general election against Shattuck, and got money from labor too. I'd have to look through my old attorney general campaign files and things like that.

Fry: After that, in 1951, Warren vetoed a bill on July 29 providing for additional appointments to the Democratic County Central Committees by nominees for state senator, assemblyman and congressman, and you made the statement at the time that this was unworkable or probably unconstitutional. I wondered if this was a move for some type of insurgent Democrats to get more control of county committees.

Brown: It was probably a move on the part of the legislators to gain more political control. I never liked the--and don't like it today--the legislators, the congressmen, the political figures dominating the political party the way they do now. You know, the Democratic State Central Committee is appointed. Each legislator has, I think, eight appointments, and so does each congressman, and the constitutional officers. So the legislature really dominates the party. So there's really no political party in the state of California other than the legislature; they're the only political group.

If we want to get public participation in politics, I think we ought to let people be elected to the Democratic State Central Committee and the county committees, although I must confess that there are so many names on the ballot now, with those county committee people running, that you can't tell who the hell they are. I think I'd favor a state central committee being elected and do away with the county committees, or have them appointed, or find some other way to select them--in clubs or something. There should be greater organization. [Interruption]

1946 Campaigns

Fry: In the 1946 campaign, your first time to run for attorney general, I understand that you were offered the support of the District Attorneys' Association, but only if you would split off from the Democratic package slate and run independently. Do you remember that?

Brown: No, I don't. I think some of them asked me to do it, because they didn't particularly like Howser. I don't think the

Brown: District Attorneys' Association ever formally endorsed.

Fry: I'm not sure whether it was a formal endorsement or whether (like they had always done for Earl Warren) all of them just worked throughout the state on your behalf in the election.

Brown: I had a lot of them working for me, but I don't remember that they ever endorsed. But you see, I had run for president of the District Attorneys' Association in 1946, soon after I'd won my first election for district attorney, because I wanted to run for attorney general. I can't remember the year I was elected president of the District Attorneys' Association, but I was, I know that. I think it was 1946.

Fry: Were you able, then to rely on this support in general?

Brown: I had a lot of district attorneys because I cultivated them. I would visit them and everything else. Warren had always been very close to the district attorneys; as attorney general and as district attorney, he'd been a real leader in law enforcement. The constitutional reforms of the attorney general's office of '34--he had been the leader in that, working with the Peace Officers' Association in California. He had been very active. Warren was a real cop, and I was too. I followed Warren's career very, very closely; I patterned my career after it: somewhat non-partisan, cultivating the newspapers. I had studied Warren and the things he had done, and I did a lot of things he did in order to achieve the governorship and the attorney generalship.

Fry: In '46, the Democrats kind of had their back against the wall in California.

Brown: Sure did.

Fry: In Bob Kenny's autobiography, he tells about the struggles of trying to put the party together in the '46 election [laughs] long enough to have an election.

Brown: Has he written an autobiography?

Fry: Yes. It's just a mimeographed thing that he gave us, and then we tape-recorded to supplement it.

Brown: Is that public?

Fry: Not yet, but it will be available shortly in The Bancroft Library.

Brown: When it is, I'd like to see it because I'll never forget Bob Kenny. We had a meeting in the attorney general's office in San Francisco where we put together the so-called "package deal." We were up there, and there was Ed Heller and Ellie Heller, I think, and Bill Malone, and Bob Kenny. He asked me to run for attorney general, and I thought about it for a little while. I thought, well, this will give me statewide recognition; I'll go, even though I knew the going was tough, with Warren leading the opposing ticket as governor. The Democratic candidates for United States Senate were Will Rogers and Ellis Patterson; we put them jointly on it, I remember.

Fry: And I wondered why when I read about it.

Brown: Yes, that kind of unwrapped the "package." [Laughter] Then the lieutenant governor--who was the lieutenant governor candidate, do you remember? I remember the secretary of state was Mrs. Lucille Gleason. We had a full ticket.

Fry: John Shelley was candidate for lieutenant governor.

Brown: Yes, and the secretary of state was Mrs. Gleason, and I was the attorney general. I can't remember who was the controller, but we tried to mix them up, and the treasurer. We had a full ticket; we had a full slate.

Fry: And Oliver Carter was there, he said, but he didn't come out with anything.

Brown: I think he kind of wanted to run for attorney general too, but I stole it from him.

Fry: What do you mean, "stole it from him"?

Brown: I don't mean I <u>stole</u> it from him. I <u>got</u> it. Bob Kenny thought I'd be the stronger candidate, being the district attorney of San Francisco. I'll never understand to this day why Kenny ran for governor, though.

Fry: I wanted you to give me the answer to that puzzle.

Brown: I've always <u>felt</u> that the Communist party got Kenny to run for attorney general. I think that Bob Kenny, some years before that, had been a member of the Communist party, and I think they threatened to expose him if he didn't run for governor. I have nothing to base this on. But Bob loved being attorney general, and he admired and worked well with Earl Warren. As a matter of fact, he supported Earl Warren

Brown: against Olson for governor in 1942, and they got along very well. He always told me that he thought Warren was a pretty good guy. And when he decided to run for governor, I was really amazed.

I'll tell you what happened. Right after we put this package together, and he filed for governor shortly thereafter, he went over to the Nuremberg war criminal trials. He always made little flippant remarks, and he said at the time, "Candidates always make major mistakes at the beginning of the campaign, but I'm going to take a trip," or something (I forget how he said it.) So here we were, [laughs] without a leader! He'd taken off because he wanted to go to the Nuremberg trials as the attorney general of California. Well, that didn't look to me like a candidate that really had his heart in it.

He got back and came up to San Francisco, and we were going down to Los Angeles on the train together. We were talking about it, and he was full of soup and vinegar. We went down on the Lark.

That night, we met at the house of a girl named Ellie Abowitz.

Fry: Yes. Her husband was a doctor. They still are close friends and neighbors of Kenny's.

Brown: Yes, her husband was a doctor, and she was a gal that Kenny apparently had a great deal of confidence in. Somebody else came over; I can't think of who it was. It later developed that Ellie Abowitz had been a member of the Communist party! And the first place that Kenny went to with me that day was to this Abowitz's house to talk about the campaign! Someone else was there that night--it was one of Kenny's closest friends; I can't think of who it was. It seems to me like Mike Fanning was there (the postmaster), and there was somebody else who was very close to Kenny and had gone to Stanford with him, I think. This fellow recounted all of the people who had come out for Warren during his absence--men that he thought would be for Kenny. And I could just see Kenny disintegrating. He got drunk, he kept drinking, and he was just sort of [gesturing]--umphh--literally collapsed that night when he found out that the people that he thought would be for him had come out publicly for Earl Warren.

Fry: Do you remember who some of those were?

Brown: I can't remember who they were. It was just a list of names that he knew very, very well. He'd remember it, if you could refresh his recollection on it.

After that, we campaigned with small groups throughout the state. We had cross-filing then. All the press were supporting Warren; he got practically the entire press of the state. The "package" [candidates] went up and down the state together, and Kenny lost in the primaries; he couldn't even carry his own party nomination.

I always respected Bob Kenny; he had one of the most facile minds that I have ever met in my life. He was keen and sharp, and he was a quipster and ready with a joke and had a good laugh, and he was a very, very extraordinary and unusual man. I think John Gunther came out and made a book called Inside America or something--Inside the United States, and he said that Kenny was one of the most brilliant men that he ever met, with which I agree.

So in that campaign in '46, [Frederick N.] Howser was the candidate for attorney general. In the primaries in Alameda County, it looked like I had lost both party nominations to Howser, but there was a twenty-thousand-vote mistake in Alameda County. So the first reports were that I had lost, but a day later they discovered the thing, so I made it to the general election. I wasn't quite sure I wanted to be in it, between you and me, because without the head of the ticket, and Howser getting so many Democratic votes, it looked like I was a lead-pipe cinch to lose. And I did.

But the good Lord was with me because I campaigned, I campaigned hard. I'd made a very short speech at each place, maybe nine or ten minutes. So the result was that I made a good impression, made lots of friends, which was a precursor to my victory in 1950. I'll never forget, I ended all my speeches with a quote from the Bible about, "As for me, let me walk humbly with my Lord." I can't remember the first part; you may know.

Fry: Yes, I think later Adlai Stevenson used that.

Brown: He used it too, yes. But it was very effective. I made short speeches. I told about my work as district attorney. And I supported the whole ticket. It was kind of fun, my first statewide campaign. I got a statewide recognition. Here I was, district attorney of San Francisco, but I moved around and met all these people. So in '50, when I was a candidate

Brown: again, I was by far the strongest Democrat in the state.

Fry: It sounds like you didn't expect to win.

Brown: No, I didn't expect to win. As a matter of fact, I thought Howser would beat me by a bigger vote than he did. I think he beat me by about 250,000 votes, which was very, very close, considering that Warren had already won in the primaries, and with Bill Knowland, the Republican, who defeated Will Rogers, Jr., for U.S. Senator.

Fry: I wondered if that Rogers-Knowland contest had drained off a lot of your campaign funds, because that was really a big battle.

Brown: I didn't have very much money. I didn't spend very much money in that campaign. I had very, very little, between you and me. My campaign was tied to the ticket, to the Democratic party, and that was all I had, plus my district attorneys throughout the state. But I didn't spend very much money. Of course, there was no television then, and you only had radio.

We made some pretty tough radio talks against Howser in that campaign. We really took him on for being tied in with the gambling interests, and even though he was elected, we wounded him in that campaign. Bill O'Connor and Norman Elkington, who is now on the bench in San Francisco, wrote the speeches, and they were clever speeches. Norman was a Republican, and one of my chief assistants as district attorney.

Fry: Are we still in '46?

Brown: Yes, the year I lost.

Fry: Did you mean that there was a Democratic campaign kitty for candidates in the package deal?

Brown: There was some money put in. We had some money. And we had pamphlets and things like that, and radio time.

Fry: I have one other question to ask you. I've heard the theory before about Kenny, who's a very bright man, being forced into the ridiculous position of running for governor, by the Communist party. But I don't understand why the Communists would <u>want</u> him to run for governor.

Brown: That I can't tell you.

VI VIEWPOINTS

Soft vs. Tough Law Enforcement

Fry: One of the interesting things in your attorney general's office, in your first term, was what appears in the press to be a rise of importance of narcotics enforcement, which in the seventies has become a primary problem in the state. There were a number of news stories about attempts by you to get ten extra men to set up another office in San Diego at the border where the narcotics were coming across. You didn't get that, by the way; the senate finance committee cut it. But you did get two extra men to go around the state and train other law enforcement officers in specific problems of law enforcement. My question is, was this primarily marijuana? (There was heroin, too.)

Brown: There was heroin; and marijuana, of course, at that time was thought to be almost an aphrodisiac. And more than that, it was not only a love potion; part of the mystique of marijuana was that men would go out and go berserk and rape women and all that sort of thing. Marijuana was put in the same category as heroin. There wasn't any difference.

As a matter of fact, there was a judge in San Francisco when I was district attorney that made a career out of sending people in possession of marijuana to the penitentiary. It was really pretty rough. It didn't stop it, of course. But marijuana was regarded as very bad.

Then, of course, we had a lot of heroin, and it was a growing thing. The Bureau of Narcotic Enforcement was under the attorney general, and I had been a district attorney and worked with the police.

Brown: I was always trying to be innovative and trying new methods and things like that. I also appointed--I don't know whether we've come to this--a crime prevention committee in the North and South, and we would meet in various places. I had one man in charge of it. These people really worked awfully hard, and they were all an intelligent group of people that were on it. They were under the jurisdiction of a man named Emmett Daly, who I later appointed judge. You ought to talk to Emmett about it. He's in San Francisco. They rendered some reports there that are still good today on organized crime, on recidivism, on narcotic enforcement, on mental illness. They went right into the penitentiary and took notes. It was a great group of people.

Fry: It was an investigatory group?

Brown: Yes, but not an enforcement group, although there was some enforcement people on it. They'd meet in committees during the month, and then we'd have a meeting once in Northern California, once in Southern California. We'd meet at places like Santa Barbara, and we always had a good time. It was really a very strong group.

Fry: Did you also have a special narcotics commission?

Brown: I think I had a narcotics commission too. I can't remember who was on that, but I'm sure that I did.

Fry: One newspaper story said that you were planning to set one up.

Brown: I'm sure I did. Then, my two chiefs of the criminal department were Arthur Sherry, who'd been Warren's crime commission guy, and a fellow named [Harold] Robinson. Those two men were the head of my criminal division, and they were both very, very good. They'd been trained by Warren, came out of the Alameda District Attorney's Office. Robinson had been with the Kefauver commission; Harold Robinson was one of the chief investigators for the Kefauver committee. I put him in charge of law enforcement here.

So I was a strong law enforcement man too during the period I was attorney general. I always attended the Peace Officers' Convention and enjoyed almost a hundred percent support of chiefs of police throughout the state. When I ran for governor, I had all that support.

Later on, when I came out against capital punishment, although I was then and am now a strong law enforcement person, because I was against capital punishment they

Brown: characterized me as soft on law enforcement. That was the symbol of whether you were a true cop or not--if you believed in capital punishment and let these guys be executed. Ninety-five percent of the police believe in that.

Fry: So that really hurt you politically.

Brown: It hurt me politically over a period of time. I lost the support in '66 of the peace officers, and Reagan got it. They are a far greater political force in this state than anyone thinks. These chiefs of police are in every little nook and cranny of the state. People have confidence in them; they're their protectors of life.

I'll never forget [Los Angeles Police Chief Bill] Parker after the Watts riots. We had a Catholic communion breakfast. The Irish are notoriously anti-cop, but when he was introduced, he got a rousing reception; he got a far bigger hand than I did, which hurt me. This was in '65 or '66. He got a real big hand for the way he handled the riot--and he handled it, in my opinion, very badly. I never thought it should have gotten to the point where it got.

Fry: The other thing I noticed was that organized crime was a big issue because Kefauver's congressional committee had come in and investigated. That was, I think, the first real television special. In '52. That was the first year, in consequence, of the federal tax that was levied on gambling. I wonder if you could just tell me what difference this made in the main things that were going on here: there was Tom Keen's murder in '52, which was a peninsula bombing; he was a dog track operator, I think. There was a Riverside gambling bribery indictment of the Sheriff Deputy Willard Parmes and others. Then there was the prosecution of Archie Scheffer who was Mr. Big of bookmaking on the peninsula in Northern California.

Brown: What was his name?

Fry: Scheffer.

Brown: Scheffer, Archie Scheffer. [Pronounced "Schaeffer."]

Fry: And Jesse James T. Sernusco was another Mr. Big the papers talked about too. And then you had problems with the FCC because Western Union was trying to get a softer opinion on a regulation which would not allow their wires to be used for horse racing information. That's some of the background relating to organized crime and gambling here.

Brown: I think you have to go back to my attitude in connection with crime as district attorney of San Francisco. Before I was district attorney, I'd been kind of a man about town in San Francisco. My father had a little gambling place and a little poker club in San Francisco that was quasi-legal; by quasi-legal, I mean they only played poker and pangingi. It was debatable as to whether they were illegal or not.

Fry: Yes. Later this became an issue too.

Brown: It became an issue in my campaign for district attorney in '43; they brought it out. But my overall theory, as I told you before, was that you had to enforce the law, whether you liked it or not, and I did. In San Francisco, there was no organized crime; the crime was all organized by the police department. The police department permitted that that they thought should go on. They permitted abortions, they permitted two or three good bookmaking places, they'd let the two-dollar whorehouses run but they would move on them: they'd keep moving, the girls were never sure of where they'd be. They arrested the streetwalkers, and they'd throw the gals in the bucket for quarantine for sixty-eight hours or something if they picked them up. So when a poor girl was arrested, she had to go to the women's court. And the Chinese gambling went on in San Francisco--the pei gow. So those were the things that organized crime could work on, but they were all permitted by the police department.

The abortions were under homicide. The vice details were always named by the mayor. Roger Lapham, during the first four years as district attorney, was certainly a very honorable man, but he was a very liberal man; he didn't believe in closing the whorehouses. I don't think he gave a damn about the gambling. The other--the abortions and the after-dinner spots or things like that--he never got serious about, as long as there were no racketeers or things.

But with me, as I think I told you before, corruption in the homicide bureau became pervasive and moved into robbery and bunko and everything else. The Atherton graft investigation indicated that cops were all taking money there. [Interruption]

Fry: So at any rate, I think what you're saying, then, is that this background of your experiences in San Francisco--

Brown: When I became attorney general, my theory was that the best way to defeat organized crime was to press for the suppression of all these illegal activities. In some parts of the state, there was some organized crime, in narcotics. The police of San Francisco never permitted narcotics; there

Brown: were narcotics there, but this was one thing that was enforced. The other things they looked on with some degree of complacency. When I became governor, for example, I closed the whorehouses up in Jackson, which had been running from time immemorial. That was the legislators' bedroom. They'd drive up to Jackson for sixty miles whenever they wanted a little extracurricular activity.

Fry: Really?

Brown: Yes! Jackson was a sensational place, running openly; the sheriff let it go. But I called the sheriffs in and I said, "I believe in local law enforcement. I don't believe that there should be any statewide police force. I think you people know your people, you're elected to do the job, and I don't want a statewide police force; you've got to do it. But if there's anything running that's illegal, I'm going to give you warning, and if you don't shut it up, then I'm going up there and shut it up myself."

The sheriff of Crescent City--Del Norte County--was a new sheriff. There were a couple of gals running up there; I warned him, and he didn't close it up. So we went up there to close the place up.

In Los Angeles County, you had Bill Parker. (I don't know when he came in, but I think he was chief of police then.) And Bill was a one hundred percent honest man. But in Los Angeles, being a big city, they probably had girls. Narcotics coming across the border were very hard to stop. But I'm sure that abortions and prostitution were prosecuted by the Los Angeles Police Department. My undercover people told me that there were girls, but it was very disorganized and there was no organized crime. To this day--I mean after I'd been in office a couple of years--I don't think there was any organized crime in the state of California in the full sense of the word. I think there were some extortionist rings of Mafia that maybe worked on the people that sold olive oil or something like that that moved into it. But after the crime commission investigation and the Kefauver investigation, and my tough law enforcement attitude, there wasn't any room for organized crime; they just couldn't move.

I was proud of the fact that there wasn't any organized crime.

Fry: Yes. There were a number of press statements to that effect.

Brown: To that effect, during the eight years I was attorney general.

Fry: There was an investigation of liquor stores, I think by a group of ministers. They reported that liquor stores were selling a lot of liquor to minors. I wondered if that was anything big.

Brown: I don't know. We conducted an investigation of the liquor enforcement, and I put Bill Bennett in charge of it. Bill Bennett went after Bill Bonelli (for liquor license graft) down here in Los Angeles and indicted him; he finally left the state after he was indicted--went down to Mexico and never came back. He died down there. One of his chief deputies was indicted and convicted, and there were two or three legislators that were involved with it. Our office went after that, and this is where we supplanted local law enforcement. It was a statewide problem.

Civil Rights and Equal Rights

Fry: There was an incident in Richmond where a black family moved into a white neighborhood, and threats and rock-throwing through his window resulted. It was a tense situation, and according to press accounts, you wanted some arrests made of the people who were throwing the rocks and harrassing.

Brown: Yes, I went after it.

I was by nature and conviction a completely unprejudiced person. (I won't say I was without prejudice; I suppose we all have a little anti in us.) But I felt my role as attorney general was to set an example of racial tolerance--I don't like to use the word "tolerance"; that's not the right word--of racial equality. And I did everything I could personally and as a law enforcement person to see that blacks were not diminished in any shape, form, or matter. As a matter of fact, the Ford Foundation had retained a gal by the name of Marcia Binns (I think it was the Ford Foundation--some foundation), and she came in to see me on some of my civil rights stands and positions. She was assigned by the Ford Foundation to spotlight any place in the West, anything of a civil rights nature.

She came into my office. I can't remember the particular case, but there was some particular case. There must have been ten or fifteen occasions in the next six years, or five years. After that she highlighted in the media things that I did. It

Brown: really was very helpful to me in my campaign for the governor. She put them on television. Later, when I became the governor, I was so appreciative of what she'd done, I put her on the board of trustees of the women's prison. As a matter of fact, she's been a friend of mine ever since.

Fry: The FBI moved in the Richmond incident. Sometimes that's a help and sometimes it isn't.

Brown: I got along very well with the FBI. I think Hoover gave me good reports; his people and I got along very well. The only place we didn't get along was on criminal statistics. I claimed that the statistics of the California Bureau of Statistics was better than his, and he'd always send over two FBI guys to find out why I made the statement. I was always amazed at the umbrage he'd take at any statements I made about his statistics. He sent over two of his best men to go after me on the thing.

With respect to the blacks and the Chicanos too, I tried my level best to see that they had equal housing, equal education, and equal job opportunities. I fought for the Fair Employment Practices Act. In 1948, I opposed this housing measure where you had to have an election in order to have any kind of public housing in a community. I opposed that bill; I was one of the leaders in opposition to that.

My equal rights for minorities, with the exception of women, went back a long time. I never even actually thought about women with respect to equal rights, between you and me. It didn't occur to me till after I became governor that you gals were really in a secondary position.

Fry: I think it didn't occur to many of us either in the Fifties.

Brown: I don't know whether it's good or bad, though, in some ways. I think it's good. Don't you?

Fry: Yes, I do think it is, but I guess we have to take our new responsibilities too.

Brown: We'll talk about that at lunch. I want to ask you some--

Fry: I want to ask you about this Guide to Race Relations for Peace Officers, which you drew up at this time--your office did; a twenty-three page booklet. Is that any relation to one that Bob Kenny's office drew up?

Brown: Bob had one, but I improved on it, I think.

Fry: I wonder if you used that at all.

Brown: Oh, yes. We sent it out to all the peace officers.

Fry: I mean Bob Kenny's, in drawing up yours.

Brown: I probably did; I probably did. But I probably brought mine up to date.

Fry: I think yours is shorter; yours is twenty-three pages.

Brown: Is it? How long was his?

Fry: I don't know offhand, but it was longer, and written primarily by his assistant, Bob Powers. Anyway, they went on from there and tried to make a movie out of it, which didn't materialize, for a training movie.

Yours was, then, disseminated to peace officers, and did you make any other efforts to train peace officers in the area of treatment of minorities?

Brown: I talked about it. I think every speech I made, I called to their attention that they felt that they were being kicked around--the blacks--and that they were, and that I felt the police had to go overboard to assure them that they were getting equal treatment.

On housing and things like that, I think I spoke very boldly for fair housing, because unquestionably there were conspiratorial moves that would keep a black out of a white neighborhood because it diminished the value of the property to a great extent. I fought all of those things. I'd have to refresh my recollection.

But you see, I grew up in a family where--I lived in a flat. My father had some flats, and we had Jewish people upstairs and Jewish people downstairs. Those were the only tenants we ever had. And my mother was a great civil rights woman, religiously, and with the blacks; it was part of my training that there be no prejudice against any race or creed. So this was sincere.

One other thing that you ought to observe. I was an original founder of the Lawyers' Guild back in 1938. This later came up in some of my campaigns--they accused me of it. [Laughter]

Brown: I was going back east later, during the war. I can't remember what it was for; it was some occasion. I happened to get hold of the Lawyers' Guild magazine. I hadn't paid much attention to them after the forming. I'd formed it because I thought the bar association was too damned conservative and too reactionary. Philosophically, I wasn't thinking of it in terms of national or international issues; I was thinking of it as a lawyers' guild, not as a political instrument.

So I was going back east, and I was on a plane (or maybe it was a train) and I had their magazine. I read some of the positions they took, and I was so opposed to them that I resigned. That must have been afterwards.

Judge Edward Preston Murphy, who was a judge in the criminal department--he was a very close friend of mine--became the president of the Lawyers' Guild in San Francisco. When I was district attorney, he asked me to re-join or become vice president, and I did. I was a member for a couple of years but later resigned because of their attitude on world communism and those things. I really thought it was communistically dominated.

One other thing you probably ran across in the clippings. In 1945, during wartime, or '44, there was a move to deport Harry Bridges. Roger Lapham and I both sent wires to the U.S. Department of Justice and the U.S. Attorney General and asked him to drop it, because Bridges was aiding in the war effort. This later rose up to haunt me, but it also helped because I made a lifelong friend of Harry Bridges and labor; as a result of it, he's been a good friend of mine over the years. I helped Harry Bridges too when I was district attorney. He had a daughter who was mentally ill, and I got her committed to an institution without any publicity and without anybody knowing anything about it. I did it secretly through a judge. He was always deeply appreciative of that. I think the girl's all right now; I think she's recovered and is perfectly okay.

Fry: My last question is one more civil liberties thing. A bill that was part of the crime commission package for 1951 called for legalization of wire tapping if approved by a judge. I wondered what the response was on the part of the civil libertarians when you came out in support of this.

Brown: Did I support that then? As attorney general?

Fry: Yes. Isn't that interesting? [Laughter]

Brown: It is interesting. You've got to remember, I was a real tough law enforcement man. As district attorney and attorney general, my civil rights grew as I saw abuses by police departments, although I should have known it before. I have no recollection of supporting it at the time. But I do remember now. You've got to remember, I also went after the nudist magazines in San Francisco. There was a nudist magazine--all they showed was the backside and the breasts of a woman.

Fry: Pretty mild. [Laughter]

Brown: Pretty mild stuff, and no frontal views of men of any kind, nature, or description. They were the nudist colonies, you know; they'd have pictures. I arrested the people selling those magazines. [Laughs]

I also prosecuted The Outlaw. I don't know if you remember the motion picture, The Outlaw, with the gal with the big breasts. [Jane Russell]

Fry: Oh, yes. It had a semi-nude scene in it or something.

Brown: She climbed in bed with this man. He was suffering from chills and fever [laughs], and she climbed in bed with him, Billy the Kid. It was so silly. But we lost the case.

We also went after Memoirs of Hecate County or something. I can't remember that, but that was a book [laughs] and we went after the publisher of that. So you can see that as a district attorney, I was pretty much of a strong conservative in law enforcement.

I don't remember that the American Civil Liberties Union did, but I know they opposed wire tapping. But with the intervention of a judge, I think I favored it at that time. I also favored capital punishment then too; I favored capital punishment I think until I'd been in the attorney general's office about two or three years and I started reading these reports of the condemned. I could see that most of them were crackpots, that capital punishment wouldn't have any effect upon them whatsoever; they'd kill, and it wasn't a deterrent.

Fry: That's interesting. I wondered about when you began to change.

Brown: I know that Marcia was working on things such as wire tapping and things like that, and she would interview me on them. I

Brown: was kind of an Exhibit A for a liberal attorney general when she started, so that may have been in '54 or '55.

Budget and Personnel in the Attorney General's Office

Fry: I think that's everything, unless you have a general statement to make about how you got along with the legislature. I notice Alan Post was trying to knock you down by over $21 million in 1951 when you first got in as attorney general. You probably had to fight for your appropriations.

Brown: Yes, but I got along very well with Governors Knight and Warren. They gave me most of the things I wanted. Then if they didn't, I'd go to the legislature. The Democratic legislature recognized me as the leader, being the only Democrat in a statewide office. I'd go up to Sacramento and had a very close association with them. I think both Warren and Knight were pretty good on the budgets to me for some of my extra-curricular activities: the narcotics study commission and things like that. They'd give me a couple of extra civil-service exempt deputies.

I got along very well with the civil service people. You want to remember that I'd been district attorney of San Francisco, where all of the employees were exempt. So I was a little bit concerned when I became attorney general that people would not be loyal. But I found out that these people were very loyal and able. Ted Westfall was the chief deputy-civil later on. I appointed a lot of Warren's staff people--Herb Wenig--and enjoyed a very close association with his former deputies. I had great respect for his attorney general's office. I was impressed with their organization and generally the operation of the office.

Fry: It certainly helps in the transition if you can keep some of the veterans on your staff.

Brown: I had four or five of my own. I brought Bert Levit in, and in every one: my district attorney, attorney general, and governor's office. He was my chief deputy for a little while. Then I brought Fred Dutton in. I made a speech in '53 or '54 to a group down here called the Diogenes Club. They were a group of young lawyers and young businessmen, young scientists and things, and I made--if I do say so myself--a very good speech. These people became my devoted

Brown: supporters and worked very closely with me in my campaigns for attorney general and governor.

William V. O'Connor was my chief deputy (he died of alcoholism, unfortunately, later on) and the man that helped develop contacts for me in the acting community down here and also in the legal community. He was a tall, handsome guy, and the girls loved him. He was dating Ann Miller at the time, who was then doing very well in dancing and films. I met a lot of the motion picture gals and directors and things through Bill O'Connor.

Frank Mackin--if you ever want to do anything more on the attorney general's office--would have a great recollection. He was my chief deputy here in Los Angeles, Francis Mackin.

Fry: Okay. Do you mean, by bringing you in contact with the motion picture group, that this was important for political support and funding too?

Brown: Funding, that's right. I got this great Spanish pianist, Jose Iturbi, to play at two or three of my functions. He was great. What are you working on now?

Fry: I'm working on the Warren Era project, and this concludes Pat Brown's part as attorney general.

Brown: You haven't undertaken the Knight-Brown era yet.

Fry: We don't have the money yet.

Brown: Is that bill going through?

Fry: We have our first hearing next week on the 15th.

[end of interview]

transcriber: Lee Steinback
final typist: Leslie Goodman-Malamuth

LAW OFFICES OF
EDMUND G. BROWN & HAROLD C. BROWN
SUITE 1800 RUSS BUILDING
SAN FRANCISCO

TELEPHONE EXBROOK 0395

November 28, 1946.

Honorable Earl Warren,
Governor of the State of California,
State Capitol,
Sacramento, California.

Dear Governor Warren:

Thank you for your letter of congratulations upon my election to the office of District Attorney. I have already visited your successor, Mr. Hoyt, in Alameda County and I would like to pattern the District Attorney's office of San Francisco after his office.

There are many ways in which you can help me and already several problems have suggested themselves to me. I would appreciate the opportunity of seeing you at your convenience.

Respectfully,

Edmund G. Brown

EDMUND G. BROWN

EGB:CB

OFFICE OF
DISTRICT ATTORNEY
CITY AND COUNTY OF SAN FRANCISCO
550 MONTGOMERY STREET
SAN FRANCISCO 11, CALIFORNIA
DOUGLAS 2-2838

EDMUND G. BROWN
DISTRICT ATTORNEY

March 29, 1948

Colonel James Roosevelt
Hotel Alexandria, Suite 933
Los Angeles, California

Dear Jim:

Your eloquence at the Democratic Conference last Thursday influenced me much more than I wanted to be. I wanted to say that we should face the fact that Truman cannot be re-elected and even if he could we really should not want him. He is not strong enough in these perilous times to achieve even the smallest goal.

At the Convention four years ago I refused to permit the same voices that spoke so loudly in favor of Truman to influence me. I felt then, as I feel now, that the nomination of Truman was one of the most serious mistakes ever made. I feel that it could well influence the entire course of history. I feel, also, that the delegation from California could be a potent force in encouraging a man like Eisenhower to become a candidate. Your time-table may yet permit this to be done, but I am afraid that the situation might get out of hand long before that time. I have such respect for your opinion I did not want to throw a monkey wrench in your plans. Now it is over I want you to know how I feel.

As Chairman of the Jackson Day Dinner, I herewith formally extend an invitation for you to be present at the dinner on Saturday, April 10. I will call upon you for a few words at that time. As soon as the program is arranged I will let you know what it is, but I want you to put everything else aside and be sure to be here.

Sincerely,

EDMUND G. BROWN
District Attorney

EGB:AS

MINUTES
MEETING, CALIFORNIA DELEGATION
SATURDAY, JULY 10, 1948.

The meeting was called to order by the Chairman at 2 P.M., Saturday, July 10, in Room 456, Benjamin Franklin Hotel, California Headquarters.

The Secretary read the roll and determined a quorum was present. 47 delegates were present -- 32 alternates were present.

At the suggestion of the Chairman, it was moved by Mr. Maurice Saeta that the caucus be in executive session of delegates and alternates, and California press travelling with the delegation, one member each of the United Press, Associated Press, International News Service, Mrs. Oliver Carter, Mr. Joe Bender and Mr. Morton Zeigler as staff members. The motion was seconded, and, after considerable discussion, it was passed.

The Secretary read the minutes of the previous meeting, which were approved as read.

Mrs. Ruth Lybeck moved that a second alternate be selected by the committee on vacancies to serve in the absence of the first alternate serving in the place of the delegate. It was seconded and passed.

The Secretary reported on the tentative existing vacancies in the list of alternates. The report was offered to the sub-committee on vacancies for recommendation. The Chairmanannouncee that he had appointed Assemblyman Julian Beck and Mr. Chauncey Tramutolo to serve with him on this committee.

The Chairman made extensive opening remarks. He called attention to the general remarks he had made at the San Luis Obispo Delegation meeting. He reiterated his intention to work for the greatest amount of unity possible and the elimination of geographical division, so that the Delegation would be an effective unit at the Convention.

The Chairman explained the background and history of Section 2304, California Election Code, which sets forth the statement of preference, and in which he had been instrumental in amending at the 1939 session of the Legislature. He called attention to the opinion of the Legislative Council, Deputy Attorney General and several attorneys, both Democratic and Republican. He stated that the conclusion of these opinions set forth that there was no technical legal bind, it was a matter of conscience of each delegate as to his moral obligation.

At this point Mr. Edmund Brown raised a point of order and stated the remarks of the Chairman were not pertinent. The Chair ruled the point of order was not well taken. The Chairman continued his remarks and made a plea that differences of opinion be discussed on the basis of the issue rather than personalities. He also expressed the hope that this procedure could be followed in future, especially in matters of policy and platform.

Assemblyman Vincent Thomas asked for the floor to raise the question "Are we a Truman delegation?" After a short discussion, Assemblyman Julian Beck raised a point of order in that there was no motion on the floor. The Chairman ruled the point was well taken.

Mr. Saeta asked for a call for the order of business.

The Chairman suggested that the question of the next

caucus be settled first. After discussion, Mr. George Ballard moved that the Sunday caucus be dispensed with, and that the next caucus be held at 9:00 o'clock Monday morning. It was seconded and so ordered.

The Chairman then suggested that the agenda also include a discussion of the method of obtaining badges and the discussion of recommendations to the members of the Platform Committee on the general subjects of Taft-Hartley legislation, Indian affairs, Civil Rights, Central Valley, Palestine and Tidelands.

There were no objections to this order of business.

Mr. McDonough thenasked for the floor and gave his reasons why he believed that the members of the California Delegation were Truman delegates. Mr. McEnery spoke to the same question, and, after extended remarks, called for the resignation of Mr. James Roosevelt as National Committeeman-elect. After a discussion of the form of the motion, the Chair ruled that the motion had not been properly made. Mr. McEnery then moved that the Delegation ask for the resignation of the National Committeeman-elect, James Roosevelt. The motion was seconded by Will Rogers, Jr. Mr. William Malone rose to oppose the motion. Mr. Patrick McDonough raised a point of order which was ruled out by the Chairman. Mr. Malone continued his discussion. Assemblyman Julian Beck moved that the motion be tabled. After some discussion of parlamentary procedure, the motion was seconded by Mr. Maurice Saeta, and a roll-call was called for. The motion to table was carried by a vote of 40 ayes, 7 noes,9 absent one pass, and the Chairman announced the motion was tabled.

Mr. George Ballard asked for reconsideration, and the Chairman ruled him out of order.

Mr. Malone moved that that this delegation go on record as voting for Harry S. Truman on the first ballot. It was seconded by Mrs. Adah Dodge. After considerable discussion, Assemblyman Thomas moved that the motion be tabled. The Chairman suggested a standing vote. Mr. Malone then asked that the motion be withdrawn. Mr. Irwin DeShetler raised a point of order that a motion could not be withdrawn after debate. He was ruled out of order by the Chairman and then Mr. DeShetler appealed the ruling of the Chair. The Chairman stepped out of the Chair and turned the Chair over to the Vice-Chairman, Mrs. Adah Dodge. After discussion, the Chair was sustained in its ruling. Mrs. Ester Murray gave a report on the work of the pre-Platform Committee. Mr. Dave Foutz called for the commendation of Mrs. Murray's work on the Committee. The following recommendations were made to the members of the Platform Committee from our delegation as guidance in their work on the Committee:

Will Rogers, Jr. proposed a plank on Indian affairs favoring complete civil liberties, vote, and adequate educational facilities. Francis Dunn, Jr., proposed that we support Federal aid to public education. Irwin DeShetler proposed that we sponsor the strongest plank possible calling for the repeal of the Taft-Hartley Bill, and that the California delegation make a vigorous effort to support this plank. Louis Warschaw recommended a plank on the subject of Palestine incorporating the following points:

1. Complete abiding by the United Nations decision.
2. Full de jure recognition of Israel.
3. United States extend a long-term loan to Israel, and
4. The transfer of all displaced persons of Jewish faith.
5. Full support to the State of Israel in its fight

against agression.

Reverend Clayton Russell made the following recommendations on Civil Rights:

1. An FEPC law similar to Executive Order 880 as placed in operation by President Roosevelt.
2. The strongest and most out-spoken plank in favor of free speech.
3. That there be an end to racial discrimination in the Capital of the United States.
4. That the poll tax be repealed.

Mr. Roosevelt recommended the restoration of the public housing features that were eliminated by the 80th Congress from the Wagner-Ellender-Taft Bill.

Mrs. Beatrice Shilkrout recommended that we include the 1933 plank on the Central Valley project. Mrs. Jessie Cullivan asked about our position on the tide-lands question. After some discussion Francis Dunn, Jr. suggested further consideration at a future meeting. There was no objection.

The Delegation went on record as accepting all of the above recommendations as statements in principle of the stand of the California Delegation.

Mr. Daniel DelCarlo moved for adjournment.

The meeting was adjourned.

Respectfully submitted.

APPENDIX IV

DELEGATES STATEMENT OF PREFERENCE

(Section 2304 Elections Code)

DELEGATES STATEMENT

"I personally prefer Harry S. Truman as nominee of my political party for President of the United States, and hereby declare to the voters of my party in the State of California that if elected as delegate to their National party convention, I shall, to the best of my judgment and ability, support Harry S. Truman as nominee of my party for President of the United States.

And I hereby enroll myself in the expression of preference for Harry S. Truman for presidential nominee, as one of the group of the following named candidates for delegate:

Delegates at Large

Julian Beck
Edmund G. Brown
Tom Carrell
Henry I. Dockweiler
Mrs. Adah F. Dodge
Mrs. Elinor R. Heller
Harley Hise
Glad Hall Jones
Henry C. Maginn
John P. McEnery
Rollin McNitt
Culbert Olson
George Outland
Ed Riley
Will Rogers, Jr.
John F. Shelley

District Delegates

Mrs. Marjorie Aubrey
George Ballard
Mrs. Sylura Barron
Amerigo Bozzani
Mrs. Louise C. Brown
Allan Carter
Oliver J. Carter
Mrs. Gertrude V. Clark
Mrs. Florence M. Clifton
Mrs. Jessie Cullivan
Charles Dail
Roland C. Davis
Daniel F. Del Carlo
Helen Gahagan Douglas
Clyde Doyle
Francis Dunn, Jr.
John Anson Ford
Mrs. Lillian Ford
Monroe Friedman
Samuel W. Gardiner
Chet Holifield
Floyd A. Klinger
Mrs. Ruth Lybeck
William M. Malone
S. C. Masterson
Mrs. William McClaren
Patrick W. McDonough
Donald C. McMillan
Nathan B. McVay
Paul E. Mudgett
Kenneth Murphy
Mrs. Esther Murray
Iener W. Nielsen
Patrick H. Peabody
Mrs. Charles B. Porter
Mrs. Nettie Scott Riherd
James Roosevelt
Clayton Russell
Mrs. Beatrice Shilkrout
John G. Terry
Mrs. Edna Theiss
Vincent Thomas
Chauncey Tramutolo
James Walker
Louis Warshaw
Charles Wortham

Date February 24, 1948

A. Amerigo Bozzani
Signed

Subscribed and sworn to before me this 24th day of February, 1948.

(SEAL)

Notary Public (or other official)

My commission expires April 7, 1950.

111

Form 18 Form Approved by the Secretary of State.

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HON. ROBERT W. KENNY

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Berkeley, California

Earl Warren Oral History Project

Robert W. Kenny

CALIFORNIA ATTORNEY GENERAL AND THE 1946 GUBERNATORIAL CAMPAIGN

An Interview Conducted by
Amelia Fry

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INTERVIEW HISTORY

Dates of Interview Sessions: October 16, 1969; February 24, 1975.

Place of Interview Sessions: Judge Kenny's home in Los Angeles.

Those present: Judge Kenny and the interviewer.

Among Democrats in California's Earl Warren Era, Robert W. Kenny stands as the undisputed, if lonely, star. But if that master quipper were alive today, he would likely respond to that assignation with "not star; sole survivor." And as usual his retort would be accurate as well as flippant. The 1940's were indeed years of doom for Democrats. Only Kenny was elected to statewide office in that decade, and then only for one term (1942-1946) and only for an office that was nonpartisan, that of attorney general. Nevertheless, he was the de facto leader of the small group of Democrats who selected candidates, plotted strategy, and confronted the twin Goliaths of Warren's superior campaign funding and his heavy bipartisan popularity.

Kenny's political leadership was far from monolithic. It came at a time when candidates could and did cross-file in each party's primary, and Republicans won the elections even though registered Democrats far outnumbered GOP voters. In such a bipartisan climate, it was Kenny's own public endorsement of Earl Warren, when the latter ran for attorney general in 1938, and the continuing friendship between the two men, that ironically contributed some building blocks for Warren's strong bipartisan base. This alliance posed no problem for Kenny as long as he was content to be the attorney general with Warren as governor. It was when Kenny decided to run against Warren, in 1946, in the face of certain defeat, that he left the question of Why for history to struggle with. Kenny appears to have solved his personal dilemma in mid-campaign by going to Germany to observe the Nuremberg trials. Predictably, Warren beat Kenny on each ticket in the primaries. The Democrats lost their only statewide office-holder, not to be replaced until 1950 with Attorney General Edmund G. "Pat" Brown. Kenny turned his attentions to developing a law practice with a civil liberties orientation, just in time to become chief

counsel for McCarthyism victims in Southern California's film industry. On the side, he also continued to minister to the problems of a party in critical condition, but charges that he was red plagued his political efforts. Finally, as one of the last acts of his administration, Democratic Governor "Pat" Brown appointed Kenny to the superior court in Los Angeles in 1966.

Some years before the interview, Judge Kenny had mimeographed a sort of documentary of himself* which contains pertinent newspaper quotations, speeches, and some running narration. Our sessions attempted to fill in and extrapolate from the chronology of events in that document. The first session centers on Kenny's early life, his achievements as a student at Stanford, as a journalist, as the youngest judge in the state, and as a state senator. The second session revisits some of the main questions, then goes on to explore the attorney generalship. Between these two sessions, more information and pertinent but perhaps hypothetical answers had been gathered in the ongoing research of the Earl Warren Era project; an attempt was made in the second session to check out some of the more recent data.

But the judge's physical condition was drastically different at the time of the second session. Whereas in the first session he was still on the bench of the superior court in Los Angeles and was crisp, articulate, wry, and witty, the second session found him retired from the bench due to an illness not fully diagnosed. He had returned home some weeks before from hospitalization, and his energies had to be carefully rationed although he was attending a legal/ social function that evening. The process of interviewing was quite exhausting for him.

A few examples of his famous repartee can be seen in the first session. The outline for that session was negotiated in his chambers that October afternoon and discussion continued on the Los Angeles freeway as we were driven to his home. (Our chauffeur was an out-of-work journalist on whom Kenny, in his typical way, was bestowing what tender loving care he could.) He lived in a well-populated canyon in an unpretentious house in the woods which sat back and uphill from a curve in the narrow winding road. We climbed several steps up the hillside to reach the porch. He did not live entirely alone, for a family of raccoons dropped by regularly for breakfast and dinner, and a large cat was clearly in control of the environment. (At one point the cat, investigating the tape recorder, caught the tape in its paw.) We taped until Kenny called a break for his customary drinks, followed by dinner at his favorite Italian restaurant down the hill. Here Kenny relaxed by entertaining: jokes and anecdotes about public events in Southern California, cogent commentary on the war in Vietnam, sympathetic analyses of the anti-war protests,

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* See footnote, page 1.

a complex description of a large and complicated industry whose case was before his court, and always the sharp insight that cut through persiflage to the human ironies inherent in all these worlds. After dinner we taped again for a short time before parting company.

The second session took place in the same house, same living room, but there the similarity ended. His energy and fast-paced mind ebbed and flowed. The recording was done after his lunch and nap, and it had to be finished in time for another nap before he went out for the banquet. The second session came at a time when anti-war demonstrations, with their disturbing implications for law enforcement, were succeeded by the final convulsion of the Watergate scandal, with the recently-resigned president residing on the coast not far from Kenny. But even the Watergate debacle did not intrude into his inner struggle for strength just to get through the day.

Explorations were made for a third session, but it soon became obvious that it would be too gruelling for him and of questionable value. Kenny died July 20, 1976, at the age of seventy-four.

During the time between the two sessions, we sometimes had lunch together when I was in Los Angeles; in addition, he agreeably served as a quick source of telephone information on anything from an old piece of legislation in a bygone session to an address (and introduction) for other persons whose consultation we needed on the Democratic side. Kenny usually answered the telephone himself in his chambers--he was never one for time-consuming formalities--and his bemused response to our questions usually defied the caller to be serious at first.

It was during this time that, with a colleague on the bench, he was denounced in the John Birch Society literature for decisions too liberal for that body. Its attack gathered momentum and supporters, and soon a recall election was crackling around Kenny. His friends stewed in indignation and prepared to fight. Kenny, although suspecting that many Birch supporters simply wanted to create a vacancy on the bench, seemed mainly to appreciate the entertainment value that the episode contributed outside his daily judicial chores.

The bench had never successfully confined his interests. Each year after the adjournment of the legislature, Kenny compiled and published, in a matter of weeks, a summary and legal analysis of the changes in the state code which had actually resulted from the thousands of bills put in the hopper that year. Even with able assistance, his rapid dispatching of such a chore is dizzying evidence of a mind able to cope with complex judicial questions and carry on full-scale research simultaneously. Similarly, he had earlier compiled a biography of the late California Supreme Court justice Jesse W. Carter, which he contributed to The Bancroft Library.* In his spare time, he helped develop

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*Robert W. Kenny, The Rebel Voice, 1965.

support and establish a home for the liberal-labor-radical papers, pamphlets, and records that were overflowing the house and garage of Emil Freed. This collection is now the Southern California Library for Social Studies and Research in Los Angeles.

I was enabled to glimpse (but not verify) some of the many lives of Robert Kenny through the eyes of those who knew him. One leading moderate Democrat viewed Kenny as quite far left and wondered aloud if he ever had really been a member of the Communist Party of America. A fellow law-enforcement officer of the 40's lauded his attorney generalship and his politics but warned that Kenny could be "treacherous," and I never found out what that remark alluded to. Those who were close to him had despaired over the wreckage of his marriage, worried about his seemingly endless capacity for alcohol consumption, and to a person rated him as the most brilliant brain in California politics and government at the time. On the latter trait, even his political enemies agreed. Another point of unanimity was his irrepressible wit. (Members of both parties recalled Warren's 1946 campaign picture of his stair-step family of eight and chortled at Kenny's irreverant response: "Is this an election or a fertility contest?") As for the Democrats in Kenny's own faction, many lamented his early political demise and wondered why he did not try for the governor's chair again in the more charitable fifties.

A final lunchtime vignette may illuminate Kenny's own attitude toward the McCarthy anti-Communist hysteria, toward himself, and toward the fallibility of human nature in general. By the time I came to know him, his controversial defense of the Hollywood Ten before the House UnAmerican Activities Committee was well past; however, public recollection of that mass paranoia and its victims had yet to surface in the national conscience and the mass media. This particular day (probably in 1970) Kenny and I had just settled down to a lunch at the Civic Center in Los Angeles when he warmly hailed a tall middle-aged man who passed our table. As the man returned the greeting with a broad grin, Kenny explained to me that that man had testified that he, Kenny, had been a member of the Communist Party. When I said that I was surprised at the show of friendliness, Kenny dug into his salad and said that he believed that the legal statute of limitations--seven years--served also as a pretty good guide-line for human errors and the forgiveness thereof. He settled back, chewing his lettuce and watching my incredulity with that maddening twinkle in his eyes. It struck me that, although that man had tried to ruin Kenny, I was taking Kenny's past crisis far more seriously than Kenny himself did. Perhaps others around him often found themselves in the same gentle trap. In politics, what seemed to be whimsy to one could be treachery to another.

At this writing, a collection of Kenny's papers from the years 1921-1947 exists in The Bancroft Library but his lack of family has resulted in no one keeping the papers of all his lives together in one location. Efforts are now underway to locate whatever may exist elsewhere. Janet Stevenson was writing a biography of Kenny at the same time this office was producing his oral history, and we are indebted to her for suggesting questions as well as donating some tapes she had earlier made with Kenny.

Whatever the future holds for a Kenny biography, it will be significant because--if I may be forgiven for taking him seriously again--the boundaries of his universe encompass some pretty important history, and he himself influenced much of it.

Amelia R. Fry
Interviewer-Editor

August 23, 1978
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

I KENNY MEETS EARL WARREN

[Date of Interview: 16 October 1969]

[Begin tape 1, side 1]

Fry: Would you like to begin when you first met Warren? Then if we have time we can pick up some points about your own career that are raised in your autobiography.*

Kenny: I first met Warren when I was a deputy county counsel of Los Angeles and I went to Oakland to meet with the attorney for the [University of California] Board of Regents. It was the time when the county school district here was arranging for the transfer of the teachers' normal school here to the University, to create what later became UCLA. I think that was in 1928. We met in Earl Warren's office simply because it was a central place for us to meet. He let us confer. The County of Alameda wasn't concerned, but it was a comfortable place to meet, and so we did. There were various papers that had to be signed and opinions to be checked, and so forth.

I think I was traveling with my boss, Everett Mattoon, who was the county counsel of Los Angeles. The county counsel is the civil side of the district attorney's office. Everett Mattoon is now dead, but he was an old friend of Warren's and an active Mason. You may remember this big Masonic kick that Warren was on.

Then, in the 1929 session of the legislature, I was sent to Sacramento by Mattoon to represent the County of Los Angeles, and I met Earl Warren several times during that session. That was the last session under Governor [Clement C.] Young, and Jim Rolph, Mayor of

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*Robert W. Kenny, My First Forty Years in California Politics, 1922-1962. First draft of an unpublished manuscript. Available at The Bancroft Library, University of California, Berkeley and at Department of Special Collections, University of California, Los Angeles.

Kenny: San Francisco, was elected governor in 1930. I went up to the legislature in '31 and I saw a good deal more of Earl Warren then, particularly when, I remember, our efforts to defeat a bill that the bail bond brokers had proposed which, as Earl Warren used the phrase, "would give a felon a sort of leave of absence." He could jump his bail, and the bill proposed a forfeiture be set aside if he came back within six months. Don't be shocked at it; I think that is the law now; I think when our vigilance lapsed the bail bond brokers got it through.

We were shocked, and we found that the bill was really being passed under cover of darkness. So Earl worked on the Alameda County delegation; he was the district attorney then and had a lot of power, and they did what he said. If it hadn't been for some fast footwork on our part, that bill would have passed that session.

Fry: Did Earl Warren usually assist Dick Chamberlain [of Alameda County] in these things?

Kenny: This was a matter of major importance to us in the '31 session, and Dick Chamberlain was the man. Dick and I both lived at the Sutter Hotel and we cooperated on many things. This was before there was any organized district attorney's lobby or anything like that, and we were primarily interested in things affecting our own communities. I was up there mostly concerned about getting flood control appropriations for Los Angeles County; there were other local concerns for Alameda County.

Fry: Did this antedate the County Supervisors Association, which became an organized lobby?

Kenny: I think the County Supervisors Association hadn't become an important lobby. We were pioneers as public lobbyists.

Fry: Did you enjoy that part of your job?

Kenny: Oh, yes. It was a great opportunity. It got me away from home; it got me acquainted with the people who were going to elect the governor--you know, a judge is just a fellow who knew a governor--and in the '29 session I met the people who later organized the Rolph campaign in 1930. Rolph was elected in '31 and I was appointed judge of the municipal bench in Los Angeles in 1931. I was just eligible for a judgeship. You have to be admitted to practice five years; my five years were up in September of '31 and Rolph appointed me in August, and I had to ask the governor to post-date the commission so that it was effective.

Fry: I think you were only twenty-nine years old, if I remember your auto-biography correctly.*

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*Kenny, op. cit.

Kenny: I think I probably was. My birthday was the twenty-first of August. No, I was twenty-nine when he appointed me and I was thirty by September when it became legal.

I've lived that down--being the youngest judge. [Laughter]

II KENNY ORGANIZES "ROLPH FOR GOVERNOR" CAMPAIGN

Fry: I didn't understand something that I read in your autobiography when you said that you got sticker girls out to put stickers on windshields when Jim Rolph came into Los Angeles. He was still mayor of San Francisco.

Kenny: He was still mayor but he was running for governor. We had three candidates. In those days we only had Republican politics, you see, and the Republican primary decided who was going to be the next governor. So in that year, we had the incumbent, Governor Young, running; we had Fletcher Bowron; and we had Buron Fitts, the district attorney here, who was the candidate of Bob Schuler, the crusading preacher who had a radio program; and we had Mayor Rolph of San Francisco.

I heard Schuler over the radio one night urging his followers to get Fitts stickers and put them on the windshield. This occurred to me as an excellent idea for Rolph, because there were a lot of people in Los Angeles who wanted to beat Schuler and Fitts but they didn't care if it was Rolph or Young. They wanted to vote for the winner, because the plurality determined it. So we really made Los Angeles look like Rolph was a winner.

The Depression was just beginning and I was able to hire these movie extras for five dollars an afternoon. They were glad to get out on the corners, and those kids could "vamp" a Rolph sticker on a Baptist preacher's car! (You see Rolph, while he didn't come out for repeal of prohibition, was generally regarded as the wet, and Fitts and Young were both dry.)

Then my friends in the Rolph campaign would tell me what route the governor was going to take coming in from the airport, and I would have the sticker girls putting stickers on the cars going in his direction, [so he saw a lot of Rolph stickers on the on-coming cars]. You see, in every campaign there are two campaigns going on. One is to elect your candidate, but the important one is to convince your candidate that it was you that elected him.

Fry: Did he know you were the one responsible for putting the stickers on?

Kenny: Oh he knew, and my friends whom I had met in '29 and who were in the Rolph campaign--his press agent and chauffeur--knew, and they said, "That's Bob Kenny's work."

As a matter of fact, he had nobody but the people supporting him here in Los Angeles. His vote in Los Angeles was such that Rolph got twice as many votes as Young. Rolph ran first in San Francisco, second in Los Angeles, and second nearly everywhere else. Fitts ran way ahead here but ran third everywhere else. So Rolph won by about thirty thousand votes over Young, and Fitts was way back in third place although he was the darling of the Los Angeles Times and the drys.

I had already got into the repeal-prohibition movement by then, so when I went on the municipal bench, the only thing I could do was handle small claims because most of the business was enforcing a law that I was trying to repeal.

Fry: I felt that as I read your autobiography last night, you probably had a great deal more to do with Rolph's election than you mentioned in the book; that is, more than just sticking stickers on windshields.

Kenny: I believe it was just as simple as that--those two things, mucilage and sex appeal, [were the winning combination]. It's small things like that that make up a man's career; and this was a happy hunch, since Rolph was undoubtedly a long-shot then. It looked like we had spent tens of thousands of dollars and I think my total outlay had been--[interruption]--what's the matter?

Fry: [Laughing] Oh! The kitty stuck her paw in the tape recorder! I'm sorry.

Kenny: [to cat] You shouldn't do that. Maybe she wants to get on the air!

Fry: I thought you might have helped out at headquarters, or made a speech on the air. You didn't do anything like that?

Kenny: No, no I really didn't. As a matter of fact, I couldn't. I was a civil service employee in those days, in the county counsel's office. Now, the supreme court has said that the civil service employee is not a second class citizen, but in those days I wasn't sure that that was the law. So I was a sub-rosa politician.

III IMPRESSIONS OF EARL WARREN

Fry: You said you met Warren while you were deputy county counsel in 1928, and then in '29 you got to know him better. I'd like to know your impressions of him when you first met him. I guess you were each in different political parties at that time.

Kenny: Well, no. In those days, everybody was a Republican.

Fry: Were you?

Kenny: Oh yes. I kept my skirts clean. As one fellow said, I was a "progressive." I was afraid to be a Democrat and ashamed to be a Republican, so I never registered. I always registered non-partisan until 1938 when I had to join a party in order to run for state senator.

One of the big characteristics of Earl Warren was that he was non-partisan. Well, in those days we were non-partisan simply because we only had one party. We were a single party state. It was not until Roosevelt's surprise landslide in '32 that there was any Democratic party other than just a family concern.

Fry: Did you have the impression that Earl Warren had a non-partisan outlook then, or just an uni-party outlook?

Kenny: I just regarded Earl Warren, then, as a good government man. He was just a great success as district attorney. We had Fitts as our district attorney and Fitts was always in trouble, always in various kinds of activities that...well, he wasn't a successful district attorney. He was re-elected several times, but he wasn't successful. Warren, you know, put a sheriff in jail, and I think he put a supervisor in jail.

Fry: A city council! [Laughs]

Kenny: Yes. He was a model prosecutor. He became marked by the good government forces for a long while as a "comer."

Fry: When were you with him again? You became a municipal judge down here and he continued as DA in the Bay Area.

IV KENNY SUPPORTS WARREN'S ATTORNEY GENERAL CAMPAIGN OF 1938

Warren's Letter on Civil Liberties

Kenny: Yes, he was DA. Then I became a superior judge in '32. In '34 he was still district attorney and [Ulysses S.] Webb was re-elected as Attorney General for his last term and I suppose it was around 1936 that Fletcher Bowron, who was our presiding judge then (later, as you know, he was mayor of the city--he lived out in my part of Hollywood) he said: "You know, my friend Earl Warren is going to run for attorney general. I think we should support him."

I said, "Yes, that's fine, I'd like to do that." And the next thing I know, Grant Cooper, an attorney here, called me and arranged a lunch. I took Earl Warren and Grant Cooper over to the California Club and I told Warren, "Sure, I'll support you." By then, of course, it involved my crossing party lines, because I was treasurer of [Culbert L.] Olson's campaign for governor down here. I had recently registered as a Democrat. I was really the youngest Democrat then; I had been a Democrat for two or three weeks I guess. I told Earl I'd support him and said, "You need to do something to help me with my civil liberties friends, because I understand your position on the King-Ramsay-Conner case, but they don't. I wish you'd think about it and write me something that would state your position on civil liberties."

[The lunch] broke up and two or three days later I received a long, hand-written letter by him--it's in the book there, I think, in the text*--and it's really quite an impressive letter, when you consider the time it was written. So I endorsed him. He used the same letter for a statement in his campaign, and with that the avalanche of Democratic wrath was on me. The Hollywood Central Young Democrats said they weren't going to support me; and Tom Mooney wrote from San Quentin saying that he was going to withdraw the "Mooney vote" [Laughter] from me. Yes, I've got that letter somewhere.

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*Kenny, op. cit. See reprint in Appendix I.

Kenny: I was running for state senator, and I really wasn't putting anything at stake, because I was convinced I would win that seat regardless of the "mighty Mooney" or that Hollywood Central Young Democrats.

Fry: Did the Young Democrats withdraw their support?

Kenny: Yes, this group did. I remember they were called the Hollywood Central Young Democrats. I've been nearly all through my life pretty scornful of political parties, particularly the Democratic party. I knew our politics when we didn't have parties; they only came in because Roosevelt came in. Our politics have always seemed to be made of papier-maché--these committees and so forth. So I wasn't particularly upset when the Hollywood Central Young Democrats excoriated me for supporting that "black Republican" Earl Warren.

Fry: You felt that the voters who would normally support someone like you on that side of the issues, would be supporting you anyway, regardless of what Young Democrat formal associations said.

Kenny: Oh yes. By then I was pretty cocky, because I'd been a wet when the drys were in command, and then in '32 we had just crushed the drys. Los Angeles voted two and one-half to one wet. So no metal could touch me, I could do anything I wanted to, I thought.

[interruption]

Warren's Planning for the Attorney General's Office

Fry: You said that in 1936, Fletcher Bowron approached you about Warren's campaign. Was it generally accepted knowledge that Warren was going to run in '38?

Kenny: Yes, I think it was generally accepted. Warren had done a lot of spade work in '34. He had gotten the constitutional amendment passed. I don't know whether I discussed that in my book or not. Under the guise of crushing crime, he raised the salary of the attorney general. It had been imbedded in the constitution at $5 thousand and was raised not to any fixed sum, but to the same salary as that paid to an associate justice of the California State Supreme Court. There were a lot of other things in that crushing crime amendment. We changed the mode of electing our appellate justices so that we [voters] just said yes or no, and they ran on their own record. And--I've forgotten, but we did several other things.

Fry: The office of the attorney general became a sort of a state executive office to direct all law enforcement issues as they came up.

Kenny: Yes, you are right. It was given additional powers. It was a beautiful plum cake that had goodies in it for everybody. This was part of Earl's long range planning for the attorney generalship. That was his dream, to build the attorney general's office so that it could be a real central law enforcement agency. I think it was in '31 that I went down to a district attorney's convention at Wawona, and Earl Warren had unified the district attorneys into a group. I was quite impressed. He was a real long range planner, he spent ten years building up his approach to the attorney general's office.

He had dear old General U.S. Webb to keep it on ice for him. Webb had been attorney general thirty-six years, so he kept the office on ice. Earl built it up--built up the salary, the power and everything. And he built up an organization of loyal district attorneys. He'd achieved what his original ambitions were when he put that attorney general's office together.

Fry: I wonder who some of his more supportive district attorneys were? Do you remember?

Kenny: Well, there was a nice little fellow--I don't remember his name--who was district attorney of Mariposa County. He was district attorney there for a long while. [pause] Well, off hand without humming and hawing, I can't tell you. This fellow [in Mariposa] was one of them. Fitts, I would say no; not our district attorney in Los Angeles. This gave him a network. He had them all over the state. It was a real valuable network. He had similar excellent relations with the sheriffs and the chiefs of police who were really most eager to upgrade themselves professionally. Instead of being at the mercy of the local bosses and the local newspaper editors, they could say, "No, we belong to an association now. We have a professional way of doing things."

The Campaign

Kenny: This was Earl's first great job.

He went in by a very narrow vote in '38, because mind you, we had the "Ham and Eggs" thing then, and Olson [a Democrat] was elected governor; but Warren did get the Democratic nomination. If he hadn't gotten the Democratic nomination that year, his planning would have been upset. The Republicans had a real scare by Upton Sinclair's race [for governor] in '34. Part of the idea of having the courts elected in the way they were was a result of that scare of radicalism that little Uppy Sinclair represented to the establishment. '34 was a bad fright. Then the "Ham and Eggs" campaign came along in '38, combined with some real stupidity on the part of the employers, who put a proposition on

Kenny: the ballot that would make it illegal to picket--an anti-picketing law. That really awakened labor. The CIO and AFL, which had been at each others' throats, all joined together to beat Proposition Number One, and that in turn beat the Republican candidate for governor, Merriam. The combination of stupidity or cupidity of the employers who put that on the ballot, plus the organization of the Democrats contributed to Merriam's defeat.

Left-wing Democrats learned a lesson out of the '34 campaign: if they had one good left-wing candidate, they could count on the right wing of the Democrats to split up into seven different directions. I think there were ten candidates running for governor in '38 in the Democratic primary. Olson was the only one supported by CCFPU--California Citizens for Political Unity.

Fry: Was the CCFPU primarily Democratic?

Kenny: This was the Democrats. This was Democratic politics. If there had been a real good candidate for attorney general, Warren might really have been in trouble. As it was, Carl Kegley, who was a nice fellow (went to Stanford when I did and was a bit of a reformer around here) was running for attorney general, and he picked up the Ham and Eggs support; but it didn't mature for the primary, so Warren got both nominations. But then Kegley had a write-in campaign in November and got over 300,000 write-in votes. All of that advance planning of Warren's didn't take into consideration the upheaval felt among people. The Depression had just gotten worse during that time, so when Olson was elected, he was elected with the hopes of people who were on the ragged edge of starvation.

Earl Warren, the Knowlands, and Mike Kelly

Fry: Do you know anything at all about Warren's support by the Knowlands?

Kenny: I don't know, but I'd always assumed that the Knowlands had a great deal to say about who was going to be the district attorney. I think Weaver developed that about the supervisors pretty well in his book.* They created a [state] railroad commission vacancy and put in Ezra Decoto, who was the Alameda County district attorney who had Warren as

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*John D. Weaver, Warren: The Man, The Court, The Era (Little, Brown, & Co., Boston, 1967).

Kenny: his deputy. I'm sure they must have had something to say, because the district attorney becomes such by getting the votes of three out of five county supervisors.

Fry: We do have some of that story in John Mullins' interview,* too.

Kenny: Yes, I'm sure. And it's in Weaver's book.

Fry: I don't have anything to really tie down how he and the Knowlands worked together, especially in the thirties, except their work together in the Republican committees.

Kenny: Well, you'll have to find out. There was a man named Mike Kelly who was a boss in Oakland.

Fry: But I thought that by the thirties Kelly was pretty much out of it.

Kenny: I don't think so, at least my friends thought it important that I go call on Mr. Kelly in '38. No, I guess it was as late as '42 when I called on Mr. Kelly. Where did he hang out? The Moose Lodge? Or the Elks Lodge? Someplace like that. He was quite an impressive man. He and Warren were not pals, I'm pretty sure. I remember my friend Fred Stuart, a member of the state board of equalization, arranged my meeting with Kelly. But this is a mystery that we Southern Californians don't know about.

Fry: What did you mean that Kelly was impressive?

Kenny: Well, he seemed like a man who knew he was impressive. He wore some medals. He had been getting some results for candidates that he had endorsed. Politics you see, is mostly folk-lore and mythology. This Kelly [was] like all political bosses; they get by a lot on getting credit for things maybe they're not responsible for. They probably get blamed for a lot of things maybe they're not responsible for, too. His myth was in pretty good working order, when I met him as late as '42.

Fry: That really surprises me.

Kenny: I think he died within the year.

Fry: Yes, that's really interesting, because in the interview with Mullins, he felt that Kelly had lost most of his power after '38. Mullins was out of politics after that himself, and probably wasn't too aware of Kelly's influence.

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*Perspectives on the Alameda County District Attorney's Office, Vol. I, Regional Oral History Office, University of California, Berkeley, 1972.

Fry: You were sent up there to talk to him by whom?

Kenny: By Fred Stuart. Fred Stuart was the Oakland member of the state board of equalization, and he was a genius. He put the state board of equalization back into business. It had been a moribund board and Governor Young was going to abolish it. Stuart had just been elected to it, and he wasn't going to have it abolished; so when the dry law was repealed, they put the enforcement and licensing of liquor under the board of equalization. The sales tax was enacted, and all of that was put under the board of equalization.

Stuart said to the legislature, "I'll tell you what, boys. You put that function under my department. It means a lot of new jobs will be created and they'll all be temporary appointments. You haven't had any patronage for a long while, and all of these TAU's--temporary authorizations--will go to your friends."

I wasn't in the legislature--I was just a friend of Stuart's--and a lot of my out-of-work newspaper friends all went to work as sales tax auditors, and some as liquor administrators. In the trough of the Depression to have several hundred jobs open up was a bonanza.

Fry: And Stuart stayed on in this.

Kenny: He stayed on until he died in about 1941.

Fry: Oh. Then, when did you see Kelly?

Kenny: Well, I was thinking. That must have been about...

Fry: Was that when you were running for senator?

Kenny: Wasn't it when I was running against Olson? I was running against Olson in '41.

Fry: So it would have been then.

Kenny: Yes. Operation Big Switch occurred in '42 when Warren ran for governor and I ran for Warren's spot. 1942 was when that happened. To pinpoint the date of my interview with Kelly, it must have been '41.

Party Support vs. Special Interests

Fry: Did you work in Earl Warren's campaign then, in 1938?

Kenny: No, no. I was Olson's treasurer. That was my big concern. Of course I was still a superior judge, then. I shouldn't have been doing what I was, but I did it. No, I didn't work; all I did was give him...

Fry: Your endorsement?

Kenny: Yes, which he needed, because he was running as a Democrat, you see.

Fry: As well as a Republican. So this must have helped him a great deal then. Built up his non-partisan stance.

Kenny: I think it helped, yes. You see, as long as we had crossfiling, we had to be non-partisan. The Democrats had to look like Republicans to the Republicans, and like Democrats to the Democrats.

Fry: However, I understand that crossfiling abolished the influence of political parties, and that influence instead was built up along the lines of special interests, such as labor and the liquor lobby and all these various lobbies. Was this true in campaigns? Did interest groups count for more than the actual party support?

Kenny: Well, yes. The actual party support wasn't anything. You financed your campaigns by tapping the oil, public utilities, banks, savings and loan interests, and what-have you--fellows who wanted to sell Harley-Davidson motorcycles to the state instead of Indian motorcycles. This was the way that campaigns were financed. You didn't go to any parties. The parties didn't have anything; they were just papier-maché. To make somebody happy, you made him chairman.

Fry: And hoped he'd work.

Kenny: And hoped he'd work, yes.

Fry: Well, who were your backers like that, and who were Warren's?

Kenny: I didn't have to have any backer in that. I was an individual careerist, because I had parlayed that sticker girl campaign, and the wet campaign into being a superior judge. I was running for senator, but that was kind of a joke job, except it was something I had wanted to do. I had been a judge long enough, and the only senator from Los Angeles County, before we had [representation in the senate based on] one-man, one-vote, earned a hundred dollars a month. But it was a great chance to throw your weight around on everything that interested you.

Fry: Yes, but I guess that the city senators didn't have the influence that the country senators did.

Kenny: Oh, no. We were just outnumbered. But you could do minor repair and maintenance jobs. It was a nice club to belong to.

Kenny: On the other hand, the Republican party was more seriously structured. Warren I think had been, somewhere in there, their candidate for president, do you remember? '36?

Fry: Oh, the favorite son.

Kenny: Yes, I think Earl was the favorite son.

Fry: I thought it was an uninstructed delegation.

Kenny: Yes, but nominally for Earl Warren. You see, Earl had already become a marked man. He wasn't going to disgrace you; you didn't have to worry about him like Fitts, for example. The Republicans, when they wanted to put their best foot forward, usually found that Earl Warren was their best foot.

Fry: Where did he get his campaign funds?

Kenny: For attorney general in '38, I don't know, but I think from the Republican organization. I think Mr. Dean Witter and Charlie Blyth in those days. I think you'll get closer to answer that question if you talk to Joe Feigenbaum. He was in Steinhardt's office. Joe Feigenbaum could tell you about the money. But there wasn't a great deal of money in the campaign; if there was $50,000 collected and spent, I think that would be the maximum.

The attorney general, you see, is an obscure office. Crafty old Webb put it down by saying, "It's the last office on the ticket." You vote for governor, lieutenant governor, secretary of state, the comptroller and treasurer, and then, way out of harm's way comes at long last the attorney general's office. This was undoubtedly Webb's self-preservation instinct. "Boys, I don't want to crowd you at the head of the ticket now. I'll get way down here."

Fry: So he was in for life. [Laughs]

Kenny: It didn't cost a lot of money to run for attorney general. When I ran, I spent $35,000 of my own money. This was four years later in '42. I imagine that we didn't collect more than $25,000. I think Earl Warren's campaign in '38 couldn't have cost more than that--fifty thousand.

Fry: I want to ask you another question. Let me turn this tape.

[End tape 1, side 1; beginning tape 1, side 2]

Fry: I've also been trying to understand the context of running a campaign in those days, when you didn't have political parties to carry over a campaign structure from one four-year period to the next.

Fry: Every campaign that Warren ran, he started from scratch. Was this typical then?

Kenny: That's right. That's right. I used to say that the California politician was really a business genius. If he went into the administration of the money-making business, he ought to be a tremendous success. Take a campaign for governor, for example. Its activity has only a three-month span. It would mean starting up a business that would have a gross handle of say, a million dollars for a three month period. That's a $4 million a year business with no permanent employees, just people that you pick up who have no hope of a job after the campaign is over. Out of this spit, bailing wire, and twine, to put together a successful organization and dismantle it, and do a large and important business, is really an act of genius. There was no continuity. I doubt if there is now. There was no continuity between one campaign and the next one, two or four years after that. We were all individual careerists. For all I know pretty nearly, that is true now.

Fry: Now there seems to be a nucleus that a candidate can depend on, to provide both money and workers in a campaign that might carry over from one election year to the next.

Kenny: Well, I think so. I think that Jesse Unruh has done a remarkable job of channeling the campaign contributions and making the lobbies deal through a centralized organization, rather than dealing directly with the individual candidates.

The Republicans, in their long years in the wilderness, have apparently got a great thing going now. They have these great advertising geniuses who take a budget, and find various ways not to be bothered by the corrupt practices act. And while labor rang doorbells and did a tremendous job in 1938 on that Proposition Number One campaign, today labor is just like Standard Oil. They write a big check, they don't ring doorbells; they haven't any organization to do that.

I suppose our politics have become considerably stabilized since the thirties and forties.

Fry: I don't have more questions on the subject of campaign organization in 1938. Unless you have something to add?

Kenny: No, not now.

Fry: All right. If you think of something we'll add it later.

V KENNY AS STATE SENATOR AND WARREN AS ATTORNEY GENERAL

Fry: So Warren was attorney general, then, and you were senator.

Kenny: I was a state senator, yes.

Fry: Did you have any contact with him during his attorney generalship?

Kenny: Oh yes. A great deal. While I was a state senator I opened up my own law office and I had some legal problems with the attorney general. I remember I represented some insurance company that was in trouble with the insurance commissioner, and I talked with Earl Warren about that. And I remember I urged him to do something about the gambling ships, because I had some clients who had had night clubs and their business was terrible. It was all going to the gambling ships.

Earl said, "Well, I'll tell you. We are going to do something." Then he outlined the strategy. When they were raided, one of the gambling ships came in and offered me $25,000 to represent them. It was all in cash. I said, I'm sorry. I had lunch with Earl Warren and I'm signed up on the other side."

Fry: Who asked you to represent them?

Kenny: This was Tony Cornero.

Fry: Tony himself?! (Laughs)

Kenny: Yes. He came into the office. I think it was $10,000 he had in bills. Very impressive.

Fry: Just like you see in the movies.

Kenny: Well, we didn't know each other; we didn't have any previous professional relationship, and I guess that was the way to, you know, put it on a good footing. But I had become disqualified.

Fry: When Earl Warren was attorney general, he reorganized the office, and initiated many reforms. Did any of this touch you?

Kenny: No, not much. Really, I had never thought much about the office. Warren had thought about the office of attorney general for ten years, and I thought about it for maybe ten days.

Fry: Did you have any reaction to the way he was running it at the time?

Kenny: It's an office that doesn't cross the life of the ordinary practitioner a great deal. No. I remember talking with Phil Gibson once, who was then finance director under Olson. He said, "I'm going to fit up Earl Warren's office there in the State Building. We want to make him happy. We don't want him thinking that he would want to run for anything else." [Laughs]

Fry: Why?

Kenny: Well, he thought that if he was happy as attorney general he wouldn't be running for governor.

Fry: Oh, I see. Should I ask you anything about Warren and Olson, because they tangled on issues.

Kenny: Well, Olson was a doctrinaire Democrat. If you were a Republican, he couldn't possibly see any good in you. He never could see anything good in Earl Warren, because Earl was a Republican. He didn't distinguish Earl Warren's Republicanism from, say, William Crocker's Republicanism, or Francis Kiesling, or any of those fellows who were stand-pat Republicans. So long as he was a registered Republican, Olson would distrust Warren. Of course, it wasn't hard to have Olson distrust anybody. He distrusted me because I had been for Earl Warren. Olson and I fell out I guess, three months after he had become governor. Although I'd been his treasurer.

Warren had been working all the time on this cooperative law enforcement plan, and he saw a great opportunity for this idea to really flourish once we were in the war [World War II]. On the other hand, so did Olson. Olson wanted his private army. Olson had the state guard. I think all of this is written up in Bob Burke's book on the Olson administration.* Have you read that?

Fry: I read that a long time ago. I don't know whether he mentions the state guard, or not.

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*Robert E. Burke, Olson's New Deal for California (UC Press, Berkeley, 1953).

Kenny: I think so. Olson had his private army, and Earl had some kind of a central commission. I don't know what it was.

Fry: Then, when war came, he had what? Warren's state guard program had a war council, which took the place of the old council of defense, as soon as he became governor, early 1943. I don't know whether this was really the same thing as his structure for coordinating all the law enforcement agencies, which he built up as attorney general.

Kenny: I think it was, and he hoped to be given a part to play in that. I think if Olson had kept him happy in that regard, he might never have run for governor. At least I was always hoping so, because Olson was somebody I wanted to have the pleasure of beating. (Laughs)

Warren was uncomfortable. We never knew when the war was going to end, and I think he saw a protracted galling situation if Olson was re-elected for governor and there was no place for him [Warren]. On this theme, you should talk to Richard Graves, who ran for governor in 1954, and who is down here.

Fry: What was Richard Graves doing at this time?

Kenny: He had been the secretary of the League of California Cities. Warren made him the secretary of this...

Fry: --state defense commission?

Kenny: This commission, yes. And I'm sure Dick could be invaluable. You should get some of your people down at UCLA, if you're not down here, to talk to him. Dick has his own business now. He came out here with that outfit that has the big buildings on Wilshire--well, it doesn't make any difference; he can be found in the phonebook. People know him. His memory would be pretty sharp on this.

Fry: You were going on to explain that this helped Warren make up his mind to run for governor?

Kenny: That's right!

Fry: Do you want to go into the Japanese relocation?

Kenny: That's pretty well covered in the American Heritage article.*

Fry: That's the re-relocation. [Laughs] I've never heard anybody speak about relocation from the legislative standpoint.

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*Janet Stevens, "The Return of the Exiles." American Heritage 20, No. 4 (June 1969): 22.

VII THE JAPANESE-AMERICAN RELOCATION, 1942

Kenny: Well, I can tell you about it. I'm glad you asked me that question. When the war broke out, there was the best of feelings. The Japanese here had done a good public relations job. They had enough sense to know that this thing might happen. They had worked hard at public relations. I was always being invited to Japanese banquets, parades, and things like that. This was in the forties. There was general good will.

We would see Nisei in the elevators, and so forth, and we would go out of our way to smile. Then the poison just started to come in. I think until Christmas there was goodwill.

Fry: After Pearl Harbor, you're talking about.

Kenny: Yes. Olson made a very good statement, but the poison started to seep in to the Hearst newspapers. This was part of the throwback to the "Yellow Peril" agitation. And the Native Sons of the Golden West had a constant anti-Oriental policy, and that became more strident.

I remember in the legislature, we were in a special session in January of '42. There was a kind of wild-man senator named Jack Metzger, from Red Bluff. He had some anti-Japanese resolutions, such as instructing the state personnel board not to hire Japanese, or to re-examine the ones who had been hired. And he couldn't get a majority of the senate to vote for that. The people hadn't lost their heads, and we were able to get the bill referred back to committee and chloroformed.

But this thing just kept developing. And the Hearst newspapers, I think, were really responsible for really unleashing the furies here. They were beating the tom-toms. California wasn't the only state. British Columbia did some very bad things to their Japanese; they were worse than us. At least we have due process, and ultimately our supreme court got up the courage and ordered it stopped in December of '44. I don't think those poor Canadian Nisei ever got out of concentration camps until the war was over, because they don't have a written constitution, our British cousins, and they don't have a due process clause.

Kenny: Oregon was bad, Washington was bad, but we were just atrocious. We had the Hearst newspapers fanning it. And I must say Warren's commission, this busy-body commission, started up, and they came out with some nutty things.

Fry: I read a speech Warren made before them. I guess they came up with something quite inflammatory.

Kenny: I don't remember the details, but I remember these "wise-owls" on this commission, consisting of sheriffs and so forth in these counties, were agitated. And I think Warren's speech was along the lines that, "The suspicious thing is that the Japanese despite, their concentration near military installations, haven't done a single thing. And that's the suspicious thing about it all!" I remember something like this. I'm sure Earl Warren has blocked this out of his memory, because it's a disagreeable thing to remember.

Some of us, like me, big brave me, I just wasn't to be found. I should have spoken up for the Nisei, but my friends in the CIO said, "Now, Bob, you can't crawl up on every cross." So, I kept quiet. At least I didn't pour any gasoline on the fire, but I didn't turn the hose on to try and put it out, either. I'm not very proud of my contributions--or lack of them--in that episode.

Fry: Could you recreate the feeling as to whether Californians really felt in danger of being attacked or not?

Kenny: Oh, I don't think they felt it a damn bit until the Hearst newspapers told them about it. And then remember, there was that incident when the Japanese gun boat took some pot-shots at the pier at Goleta up there in Santa Barbara. That occurred in late January. I remember we were still in session in the legislature when that word came in, and I'm sure Metzger thought this was war. About that time, Olson's private army, the state guard, was concerned in this. By January things just deteriorated in this.

Fry: How was the state guard involved?

Kenny: Well, Olson was busy trying to get his state guard established, and we anti-Olson people in the legislature were trying to stop his wagon on that. We thought we were doing pretty good, and then Mr. Hearst, who up 'til then had been quiet, Mr. Hearst said, "The governor is absolutely right. He should have his state guard." And with that Marion Davies opened up her home as a hospital for wounded state guardsmen. This was nutty, but this was what was happening in January of 1942.

Fry: And this was a big legislative concern at that time?

Kenny: Oh yes. That probably was foolish too. We were doing everything we could to block Olson's state guard; but I think when Mr. Hearst came out for it, we all folded up.

Fry: I was trying to get a feeling about how much hysteria there was.

Kenny: Well, to me you know by that time I was a man forty-two years old, and an experienced propaganda analyst, so I could see where it was coming from. It was coming out of the Hearst papers, and the general fear of the rest of us [prevented us from] standing in the way. Even Carey McWilliams had said, "Why most of those Japanese are getting better care in those concentration camps than they ever do at home." Real scary. We were all saying nonsensical things. Because of course, we were a little upset. That Pearl Harbor thing was unsettling, to people who get unsettled easily. The perennial optimists--like me--I was sure that it would never happen again. For once I was right.

VII "OPERATION SWITCH" IN THE '42 ELECTION

Fry: When Warren did decide to run, what was that shift that took place? You had thought you wanted to run for governor too.

Kenny: Oh, yes. I was running for governor. And so was Gordon Garland, who was a conservative Democrat who was speaker of the assembly. The legislature thought it was a great joke. They appointed a committee of two, one from each house, to go to Washington on that state guard thing, and who went but Garland and me! (Laughs) We were roommates in Washington during that time.

Fry: How did you get along?

Kenny: We got along fine. I took him to the Supreme Court and introduced him to Bob Jackson--you know he was a rube from Tulare--and we got along fine. I was well on my way to conning him to run for lieutenant governor, I hoped, so that he wouldn't be in my way. But then the Warren thing came and--[pause]

Fry: You had already announced, is that right?

Kenny: Yes.

Fry: Who was helping you in this?

Kenny: Oh, I had a press agent who I had hired, Carl Moritz, who was always helping me. But I think I was doing most of this myself.

Fry: It wasn't any senatorial clique, or anything like that?

Kenny: No. There aren't any. As individual careerists, we have to do most of our own work. I'm sure Earl has to do a lot of his own work.

Fry: So, when did this switch come? That's the place I stopped reading your book last night.

Kenny: The switch must have come about April or May. Certainly March of '42. Because I think we still had our primaries in August, so there was quite a margin of time left.

Fry: So very early, then, in the spring. And why did it happen?

Kenny: It became apparent to me that if Warren and I were both in there, Olson would certainly win. Also I felt that Warren was certainly a better vote-getter than me, because I had never run statewide and he had, for attorney general. So I started looking for a nice way to create a draft. Of course, the other thing I had was that the Olson people didn't want me in the race running against them. So all of the people in the Democratic party that hated me all signed a big paper begging me to run for attorney general in the interests of unity. After enough of them signed, why, I graciously consented. This is the way you create a draft movement.

Fry: [Laughing] So you took your hat out of the ring then for governor, and threw it in the attorney general's ring.

Kenny: That's right. With one motion! [Laughs]

Fry: Did you confer with Warren at all at this point?

Kenny: No, we never did. A lot of the Democrats always thought I had some kind of a deal with Warren, but we never talked about anything like that. You don't do it. It's not done. The dynamics of the situation take care of things like that.

Fry: Doesn't look like you needed to talk with Warren at this point.

Kenny: No. It's the forces that are at work that make the decisions, and not two guys sitting and talking, or pledging each other.

Fry: So you didn't work any for Olson, did you?

Kenny: Oh, I worked, and put about $15,000 in his campaign, in '38.

Fry: Yes, but in '42.

Kenny: In '42, well, we were on the same ticket. Yes. I thought Olson had a chance to win. But that's my perennial optimism. I didn't endorse Warren for governor. I was playing a perfectly orthodox campaign. But of course, the result of it was that just as Warren was the only Republican elected in '38, I was the only Democrat elected in '42.

Fry: [Laughs] But you didn't get the other party's [Republican] nomination.

Kenny: No, I just missed it. A fellow named Wallace Ware got the Republican nomination. He's the former public utilities commissioner. He campaigned against me and said that I was a "Jap lover." It was really a dirty campaign.

Fry: What was he basing it on?

Kenny: I had made a few unfortunate pro-Nisei remarks, I suppose. He knew very well that I was. That was the high tone of the campaign that we had. Somehow my campaign jelled and his didn't; it was a surprise, but I swam up against the stream and won in '42.

Oh, yes. That opened doors everywhere. I went back to Washington, and Frank Walker said, "You must see the boss." The next thing I know, I'm being ushered into Roosevelt's presence.

Fry: Which opened the doors?

Kenny: My win in '42. Because hardly any Democrats won anywhere. It was a big landslide for the Republicans in '42.

Fry: Was FDR interested in how you did it?

Kenny: Yes. Some. But he wanted to gossip about Jack [John B.] Elliott, who had been Woodrow Wilson's campaign manager out here. Apparently he and Roosevelt had had some things between them, and Roosevelt really wanted to talk to me about Jack Elliott! I only had fifteen minutes and I was steering him off of that.

Fry: Did he steer easily?

Kenny: Yes. Oh, he asked me about Warren. I think I told that story over the NET [National Educational Television documentary on Earl Warren].* He said, "What kind of a fellow is your new governor?" I said, "Well, Mr. President, I'm just a California booster. Everything we have out there is better than it is anywhere else; even our Republicans are better than they are anywhere else."

Fry: [Laughing] Even our Republicans are part Democrat!

Well, we agreed we'd stop right about this time and take a break.

Kenny: Well, all I have is vodka and tomato juice. Would you like a Bloody Mary?

Fry: Oh, that sounds fine, with not much vodka.

[End tape 1, side 2; end interview #1]

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*In the Bancroft Library, University of California, Berkeley.

VIII MORE COMMENTS ON WARREN

[Beginning tape 1, side 1 of interview #2: 24 February 1975]

Fry: I thought I'd start out by just picking up some things from our last interview. You had mentioned in there about working in the legislature as an advocate for the county of Los Angeles, and you, Earl Warren and Dick Chamberlain (who is now a judge) tried and eventually succeeded in crushing the bail bond brokers' bill, about 1931. You said something about "fighting fire with fire," and I thought perhaps therein lay a story.

Kenny: That's what Earl said. We were fairly high-handed then. The chairman came from Earl's county, Senator Christian.

Fry: The chairman of the committee?

Kenny: Yes. Earl had considerable influence on him; he was the district attorney of his county. So Christian took the bill and left Sacramento and didn't come back until the session adjourned. And Earl said, "Well, that's fighting fire with fire." That is to say, the other side--the bail bond brokers--would have resorted to any sharp tactic like that. We beat them to it; we just hid the bill on them.

Fry: Christian just took it with him and went home?

Kenny: Yes. The bill can't be passed; it's in the possession of the chairman of the Senate Judiciary Committee. So that ended it. That was Earl's statement, "You have to fight fire with fire."

Fry: I have a few questions on Earl Warren himself, that I want to ask you. Since I last talked to you, we received an interesting letter from attorney Marsh Maslin, written to "Pop" [Merrill F.] Small [former secretary to Earl Warren], with permission to send this note to me. I'll read you the paragraph that I want you to comment on. Maslin says:

Fry: Warren, as you know, was not especially friendly with Bob Kenny, who's now superior court judge in Los Angeles. Kenny told Bob Shaw that when Warren was governor, he visited Kenny in Los Angeles and said he wanted some help. He had changed his mind about some things, and wanted Kenny to give him a list of material to read. He also, according to what Bob Shaw told me, used to visit a prominent labor lawyer in Los Angeles for similar indoctrination in liberalism.

Do you remember this?

Kenny: Well, I don't know about the visit to any labor lawyer; that would be interesting to know who it would have been.

Fry: He said that lawyer is dead. So I guess we won't know. I could ask Marsh Maslin who it is. But I wondered if Warren had come to you specifically for a reading.

Kenny: No. Not as such. But he came through an intermediary--I think it was Jim Oakley; Jim was travelling with him then--and it wasn't anything about books or anything; it was just that I had told Fletcher Bowron I was going to support Warren.

Fry: That was for attorney general?

Kenny: Yes, in '38. Then a few days later, after I'd told Fletcher Bowron--Fletcher lived up in the hills here, and I think we used to ride to and from work pretty frequently--and in the course of it, I told Fletcher. He must have gotten word to Earl, because Jim Oakley then arranged a lunch. Jim had become a friend of mine at the '29 session, and he was at the district attorneys' meeting up there in the hills of Yosemite--what is that resort?

Fry: The Ahwahnee Lodge?

Kenny: Not Ahwahnee; it's up on the hills above. It isn't important. But I was there with him; it was a kind of a family thing. The first time I really got to know Earl Warren was at that meeting. Jim Oakley was there, and Jim and I were nearer of an age. And so Jim arranged to have the lunch in Los Angeles, and I signed the check at the California Club. Jim and Earl and I were there; I don't remember anybody else.

At that time, I told him that I needed something to save my face with my liberal and civil liberties friends if I supported him.

Fry: And I have that story from you about Warren writing out his stand on civil liberties.*

Kenny: Yes. I think I had a couple of copies of it here.

Fry: And then later on, did Warren come to you for some suggestions?

Kenny: No, that did the trick; that got adequately covered. Tom Mooney threatened to read me out of the Democratic party, (laughs) poor old Tom.

Fry: So you don't remember him coming to you then, for some liberal "indoctrination" per se?

Kenny: No. In my experience with people, nothing like that ever happens. It's always done more indirectly.

Fry: Did you see a liberalizing of Earl Warren?

Kenny: Oh, yes! Of course, it became pretty obvious by the time he was chief justice.

Fry: What I meant was, in the early days of his governorship, or even in his attorney-generalship, did you see any indications?

Kenny: It was undoubtedly there, but I don't think it was too perceptible. There was no sudden conversion like Saul of Tarsus.

*page 7 of this manuscript

IX OIL AND POLITICS

Fry: I also wanted to ask you about something you mentioned to me once, maybe on the telephone. You said that you had noticed Earl Warren coming out from a private dining room with Harold Morton and Jack Smith and maybe Mr. Keck of the independent oil companies. At that point you knew that he had their support.

Kenny: You see, he had to do at least that, appear that much with the oilmen. I think it was Harold Morton, or one of that group, who said, "Earl Warren would be shocked--"no, "Earl Warren wouldn't be seen with an oilman." In other words, he was saying that he was seen that day. [laughter].

Fry: By you.

Kenny: Yes. And I had J.W. Buzzell with me, the AFL's ringleader here. We were in the upstairs room of the California Club, listening to a radio debate in which Buzzell and I and some Chamber of Commerce people had figured in a unity campaign that we were having during the war. This was when I was thinking of running for governor against Olson.

Fry: After Pearl Harbor? In '42?

Kenny: Yes. The war broke out in '41; this was early in '42.

Fry: We don't have a clear picture of how long Warren's oil support continued. I wonder if he had any in the '46 campaign.

Kenny: I wouldn't know; but I think not, because I had independent oil support then.

Fry: In '46?

Kenny: Yes. That shows that the oilmen can make a mistake too. They put in $10,000 or $20,000, I think. The amount would be a minuscule part of today's contributions.

Fry: But that was a pretty large amount then, wasn't it?

Kenny: Yes.

Fry: In the amounts that were reported to the secretary of state at that time, you never see contributions listed that are that big.

Kenny: No.

Fry: Five thousand about hits the top.

Kenny: Yes.

Fry: So they were already pretty disillusioned with Warren, then, by '46?

Kenny: Yes, they were; and the doctors were too, because Warren had done the unspeakable thing of coming out for state health insurance--which I now am currently the beneficiary of. [laughing]

Fry: You couldn't campaign against him now on that issue, could you?

Kenny: No.

Fry: Were you and he on different sides of the tidelands oil bill?

Kenny: No, we were on the same side on that.

Fry: I know you had fought for getting a quitclaim from the federal government when you were attorney general [1942-1946].

Kenny: Well, it [the state] was my client; I had to. The state had the property and it was being given away by the U.S. Supreme Court.

Fry: So that wasn't your personal view?

Kenny: Well [expansively], I didn't have any particular view on it. [Secretary of Interior] Harold Ickes had a wonderful technique: when he was against anything, anybody else who was for it was ipso facto a crook! And Ickes was the man who was against the state's position. I took what was then a very easy position to take. That is, it was the state's property. We sought to quiet the fight by a quitclaim bill, which would of course terminate it. Well, we didn't get the quitclaim bill through; and the result was the tidelands suit went on and we were losing it.

After I was out as attorney general, California brought the action that we won in the Supreme Court; that was after the quitclaim bill had been passed, I think.

Fry: At the time of the fight, I believe the forces pro and con were divided between the big oil companies, like Standard Oil, who wanted it to remain in federal control, and the independent oil companies, who apparently hadn't been able to get any of those federal leases, so they wanted it changed to state control. Is that right?

Kenny: Yes. They weren't really identified. They were an Ohio concern. Tom Corcoran was then attorney for the forces that were against the state position, and Ickes was against us, and I guess [Attorney General Francis] Biddle was.

Fry: I had a kind of simplistic view of this, that since you had taken the position for state ownership of tidelands as attorney general, therefore it made the independent oil companies happy, and you were able to get their support.

Kenny: It did. I was able to get both factions supporting me.

Fry: Oh, you had the big oil companies too?

Kenny: I think so; really it was the little small adventuresome group that wanted the tidelands taken away from the federal government.

Fry: But it had a lot of big money if it included Standard Oil.

Kenny: Well, I don't think it was Standard Oil. It was a lot of money <u>if</u> you got possession of those leases. My impression was that it was Ickes and Corcoran. Somehow my impression is that it was <u>Ohio</u> money, people from Ohio.

Fry: There's a write-up about this in <u>The Politics of Oil</u>.* It may be that Standard was primarily interested just in the Long Beach tidelands. That was a big fight; was that a separate one?

Kenny: There was a fight there that I never knew the story of. There was a fight on the Terminal Island property, but I never knew about that, or at least never got it clear in my head.

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*Robert Engler, <u>The Politics of Oil</u> (Macmillan, New York, 1961).

X KENNY AS ATTORNEY GENERAL

Relationship to Governor Warren

Fry: I wanted to ask you a few things about your attorney-generalship. The state law enforcement community had long been led by Earl Warren, in the sheriffs' organization, in the district attorneys' association, and so forth. When you went in as a sort of chief law officer did this pose a difficulty for you, since they had been literally organized by Warren and were "his boys"?

Kenny: Yes, they were still Earl Warren's boys, and I didn't do anything to disturb it.

Fry: I was wondering how this affected your ability to deal with the law officers all over the state?

Kenny: Not at all, it didn't hurt it at all. They were with us, and Warren and I were absolutely together. Warren had the idea of using the attorney general's office to give it an important say in the development of the war effort.

Fry: You mean when he was governor or attorney general?

Kenny: When governor. As attorney general, he also did.

Fry: Yes, he had that battle with Olson over civil defense leadership.

Kenny: [Governor] Olson was willing to fight Warren, but I wasn't. When I was attorney general, we saw it the same way.

Fry: I wondered if you ever had a difference of opinion in which the support of the law enforcement people around the state was rallied to Warren rather than you?

Kenny: I don't believe so.

Fry: One of the things that you did when you were attorney general was ask for legislation to put your deputy attorneys general under civil service. I wondered why Warren hadn't already done that, since he had done so much reorganization.

Kenny: He just didn't believe in civil service for attorneys. An attorney ought to be a man that you could fire right away. He felt that they were professional men, and that was the general belief of our district attorneys in the state. They didn't have any civil service deputies.

But when Warren was running for governor, and I was running for attorney general, I promised the deputies who were appointed by Warren that I would "pack them in" so they wouldn't be vulnerable. They sure reminded me of it when I got in [chuckling]. Earl called me down to the governor's office, and he said,

"You sure you want this, Bob?"

I said, "Yes, I promised it." And I said, "I got my start in politics when I passed the civil service examination for the county counsel's office in Los Angeles." So he signed the bill. He just asked me about it when the bill was down there for signature.

Fry: So that was no problem between you and Warren.

Kenny: No. All of his deputies, like Jim Oakley, Ted Westphal and all of those fellows, were packing it in. They'd have been out on the street otherwise.

Fry: You did put in a training program I think, for riot control. Is that right?

Kenny: Yes.

Fry: I have a note here about the Peace Officers' Committee on Civil Disturbances Interim Report issued in 1943. The committee was appointed by Earl Warren, following a meeting in Los Angeles August 19, 1943, with you as chairman, Roy W. Hays, adjutant general, E. Raymond Kato, chief of the California Highway Patrol, and so forth. You were together on this and planned--

Kenny: This was occasioned by the Zoot Suit riot of 1943. I don't know whether I developed that story or not; I think I do in my book.*

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*Kenny, op. cit., 184-186.

Fry: Yes, you develop the story of the Zoot Suit Riot. I wanted to supplement it with your story of how you trained officers for riot control, because later, in the 'sixties, this became a brand new law and order issue again.

Kenny: Yes. Well, Bob Powers was appointed by Warren to be law enforcement coordinator. And Bob was obviously in need of seminars or something to teach the peace officers the techniques of getting racial harmony.

Fry: Yes. We have the story of that, too, in Bob Powers' interview.*

Kenny: Well, that's the story.

Fry: Was there any attempt to train them, also, for what to do when a riot does develop, the difference in techniques that a law enforcement officer has to use for a mob disorder as opposed to arresting a drunk on the street?

Kenny: Yes, or giving a traffic tag to the wife of the chairman of the city council.

Yes, we had a course down at Richmond. There had been some danger of racial turbulence in Richmond because there was a large black population coming in there, and the war was about over. So Bob Powers and a fellow named McIntyre ran the course. I think it's referred to in my autobiography. He came out from a foundation in Chicago that Marshall Field had established.

Fry: Oh, I see. I thought that was just training to cope with racial prejudice.

Kenny: Well, that was it primarily, but we got it all under the law enforcement coordination plan, or whatever it was.

Changes in Organization

Fry: In your office, in general, did you move more towards a stronger, more centralized attorney general's office, following the kind Warren had set up?

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*Robert Powers, Law Enforcement, Race Relations, 1930-1960. Regional Oral History Office, University of California, Berkeley, 1971.

Kenny: I just did what Warren had been doing.

Fry: Didn't you set up the Department of Justice, and develop more in the area of criminal laboratories?

Kenny: We created the Department of Justice, because some Oakland yacht bandit, whom Earl Warren had gotten a conviction for when he was district attorney, and who was supposed to be locked up in Folsom or San Quentin, showed up in the streets of San Francisco driving the warden's car. Warren was excited about that.

The prison board was the controlling element, not the governor, and so we called a special session and created the power in the Adult Authority, which was a new agency that we created over that weekend. Warren was very intense about [Lloyd E.] Samsell. The man was Samsell.

Fry: Samsell, yes.

Kenny: I think that would show up in the index in my book. Maybe not.

Anyway, Samsell was the warden's chauffeur--the former yacht bandit. And we took the power out of the prison board and gave it to this newly created agency, the Adult Authority. That's when that came--the present Adult Authority.

Fry: Right. Now, how did the Department of Justice fit into that?

Kenny: Well, we had to have somebody at the head of it. The governor couldn't be head of it, but he still felt like he ought to be; so it was the Department of Justice and the bill made the attorney general the head of it.

[End tape 1, side 1; beginning tape 1, side 2]

Fry: That was at the same time, then, that the Department of Corrections was reorganized?

Kenny: It was part of the same bill. Warren called a special session of the legislature, and we created a Department of Justice. We put the functions of the prison board into the Department of Justice and into the Adult Authority. The Adult Authority was given this new power of determining the length of sentences. It had control of that part of the prisons. Another board was given the power of governing the prisons. I think that was in May of 1944.

Fry: Yes, it was early spring of '44. When you said that Warren wanted to be in charge, did you mean of the Department of Justice?

Kenny: Yes. He knew he couldn't be; he was unfortunately handicapped by being the governor at that time. It logically had to go into my department and he put it in there; he told the legislature that was what he wanted.

Kenny: We also picked up other departments, for instance the State Narcotic Division, which had been an independent thing. At the time of this reorganization, we put the state narcotics under the attorney general, or under the Department of Justice.

Fry: Was the Department of Justice encompassed by the attorney general's organizational chart, or was it kind of off by itself?

Kenny: No, the attorney general became the head of the Department of Justice, and the narcotics division just became a division under a pleasant Irishman that they later fired. A dirty trick.

Fry: You mean, after you went out?

Kenny: Yes.

Fry: Then [Attorney General Frederick Napolean] Howser fired him?

Kenny: I guess Howser felt that that was important. Warren wouldn't have fired Joe-- I can't remember his name.

Victimless Crimes

Fry: What were your big narcotics problems then? Did you have to deal with pot--with marijuana?

Kenny: Not much. Marijuana was a great thing to improve statistics.

Fry: What do you mean?

Kenny: All law enforcement agencies have to make more pinches than they did the year before, so those pot arrests, those pinches for pot, were very handy in improving our statistical position. We looked very busy.

Fry: [Laughter] I gather, then, that there was no real move to eradicate the pot smokers from the face of California?

Kenny: No, no. Most people had never heard of it. It was very handy in making us look busy.

Fry: And your Bureau of Criminal Identification and Investigation?

Kenny: That had been an independent bureau, just like the narcotic bureau, and that was brought under the attorney general too.

Fry: Did you have any trouble getting the sheriffs and DAs in outlying counties to use these services?

Kenny: They used it about the same as they always had. There was an existing bureau, and it went on about the same as usual. They had finger printing experts, and modus-operandi men, and they just continued under a slightly different name. It was just a change of names. The only thing new that happened was that the old prison board was abolished and the Adult Authority came in to fix sentences.

Fry: I got the impression from the annual report that the venereal disease service was new--that it was put in with all these others at that time.

Kenny: Yes. Well, we were making some department of the federal government happy. The federal government wanted to stay its hand; the health department didn't want to take over what they thought was essentially a state function. They said: "We'll send you out some men who will write books and deliver speeches on the subject." They sent out a nice fellow from Virginia, if I recall, who wrote a book on venereal disease control and signed my name to it.

Fry: So it was not under public health because they thought that it would be a state function and not one for the counties?

Kenny: Public health apparently didn't want to take on the chore of quarantining people who were infected with venereal disease.

Fry: They saw this more as a law enforcement function?

Kenny: Yes. We had to deal with the army and the navy on venereal disease control.

Fry: Did that have to do with quarantining neighborhoods around military camps? Prostitution areas, red light districts?

Kenny: I guess so. Let's see now, what were the red light districts? There was a red light abatement act, yes. It was a popular name that was created in San Francisco in, I'd say, the 1910s, or around in there. There were crusading clergymen who were going to "put out the red lights."

I have the book here, but you don't want to get diverted into that.

Fry: We might give a reference to it so that people can look it up; it must be in various documents libraries. Was it published by the state?

Kenny: Yes, I think it was; I think we did that much. The federals did the work. I'll give it to you with my compliments.

Fry: Well, thank you! Let me see what I can find here as a reference.

Fry: "Combating Venereal Diseases: Laws and Procedures, by Robert W. Kenny, State of California, Department of Justice." No date. It is obviously a timeless document! [Laughter] It must have been printed about, when, '44, '45, maybe?

Kenny: Yes. There would be a camp where they were training pilots, up around the Oregon border. There would be a lot of lumberjacks who were cutting down spruce, and who were also chasing the ladies in Plumas or wherever the county seat was. The navy would come in, if it was a navy camp, or the army, and say,

"Bob, we've got to do something to slow this VD rate."

And so I'd call the sheriff in and say, "I've had this visit from the army," and remind them there was this act called the May Act--a federal act that required states to follow out the orders of the armed services. So the sheriff would say,

"We can't do it. You tell the army and navy [laughter] to do it." It would end up that I usually got the army to agree to declare these houses off-limits to service men. That seemed to be a fair way of doing it.

You'd have terrible trouble--that May Act. I remember I'd call up Irving Martin of the Stockton Record, a pillar of the community. I'd say, "Can you get your grand jury to act on these houses?"

He'd say, "Bob, why are you picking on Stockton!" And the Sacramento Bee said to me, "We can't help that problem." I think there was a codicil in [Bee publisher Charles K.] McClatchy's will, in which he said that Sacramento was built on a single man's economy, and you shouldn't do anything to close these cat houses! [Laughter] Yes, I think that's the codicil. But it's a rumor, and probably not so.

Fry: Along with his support for public power, he was also for public prostitution!

Kenny: Yes, I believe that the Bee was against it--that you shouldn't disturb the single man's economy. So we had an uphill fight. Crusading against sin wasn't at all popular, it turned out. There were large interests in a lot of those Northern California communities that didn't want any interference: "Don't pick on us!"

Fry: Was this also an example of your office having power to step in and enforce laws in communities where they were inadequately being enforced by the local law enforcement officers?

Kenny: That's right.

Fry: Did you have very many instances, besides the prostitution issue?

Kenny: We didn't have very many. We usually called the sheriff and said, "We've had this complaint from the army; can we help you in doing it."

Fry: Were there other types of crimes, besides prostitution, where you had to intercede?

Kenny: Gambling.

Fry: You had to step in there some?

Kenny: These were all what are now known as the victimless crimes.

Fry: Yes. Now there is a bill in the legislature to--

Kenny: Abolish them, de-criminalize them.

Fry: Did victimless crimes take up much of your time then?

Kenny: It was the most sensitive thing you had to deal with. For instance in Redwood City--we couldn't get the grand jury to act; the judges weren't interested in tackling this.

Fry: Which? Prostitution?

Kenny: Gambling. A nice victimless crime. We just threw up our hands. Warren was governor, and I talked to him about it. We had Frank Coakley, who was later district attorney of Alameda. He had been a trusted deputy of Warren, and we put him on it. He couldn't do anything. Coakley had just come back out of the navy. I remember asking him up and talking to him about it.

Fry: Was this any sign of a growing power of organized crime?

Kenny: I don't think so. It was just the way we had always done it in California.

Fry: Did you have the Organized Crime Investigating Commission at that time--the crime commission that Earl Warren had appointed?

Kenny: No, he didn't appoint that until--

Fry: No, that was later. That was when [Attorney General] Howser was in.

Kenny: That was Warren's device to really fix Howser! It taught any young promising attorney general that these victimless crimes were largely indigenous and you should let the operatives operate. Let the sheriff of Amador County decide what was going on in Jackson. There's too many of them and just one of you.

Fry: You mean that was one of Howser's mistakes--trying to get a piece of the local action?

Kenny: Yes. He wouldn't let the crime be indigenous. He wanted to operate part of it himself! And it just didn't work. His deputy [Wiley] "Buck" Codel, who was arrested, went to the pokey. Drew Pearson exposed things. (Poor Drew's dead now.)

Fry: Were you more willing to let law enforcement be handled on a local basis than Warren was?

Kenny: I don't think so. When Ulysses S. Webb, who preceded Warren--(it was before I took office) was asked "what have you been doing as attorney general?", he would reply, "Well, I've been up in the northern counties."

"What are you doing there?"

"Oh, I'm mostly playing those slot machines that [District Attorney] Earl Warren abolished!" [Laughter]

Alien Land Laws and the Japanese

Fry: In another part of your annual reports, there was a report of how you were having to follow the resolution from the extraordinary session of the 1942 legislature, which said: "Evasions of the alien land laws of 1913 and 1920 be investigated and prosecuted to the utmost." Your report for '42 to '44 says: "Numerous cases of alleged violation were investigated for purposes of escheating property to the state." But then you mention that you didn't have enough staff, and there was a manpower shortage, and the scattered location of the Japanese had made this very difficult.

Kenny: And so we didn't do it! [Laughter]

Fry: I couldn't quite tell from that whether you had been able to prosecute any cases or not.

Kenny: You know, we prosecuted <u>some</u>.

Fry: I know there was a lot done by Warren Olney to locate these Japanese and to investigate illegal ownership of land.

Kenny: Yes, that he did in '42.

Fry: Right after Pearl Harbor.

Kenny: But you know, ultimately the war was over and all that property was given back to the Japanese. If they settled a case for money, we gave them the money back.

Fry: I hear some of those cases are still going on.

Kenny: I doubt it.

Fry: There's some lawyer in San Francisco, Bob, who has been the main lawyer for the Japanese Americans in all those cases--

Kenny: Purcell?

Fry: No, it's someone else. He also was famous for taking a case to the supreme court to allow gay [homosexual] bars to operate, the "Black Cat" case. Now I remember his name: Wayne Collins.

Kenny: Oh, I know who you mean.

Fry: On the telephone he told me about these cases, of property escheatment. Was there another way, too, when the Japanese were being removed, that their property was confiscated?

Kenny: Yes.

Fry: At any rate, he said that sometimes they could only get back fifty cents on the dollar in some of these.

Kenny: Well, they did pretty well. We had a terribly guilty conscience on that.

Fry: So, they had the advantage of that?

Kenny: Yes.

Fry: The other thing, is that Janet Stevenson, who is working on your biography, told me that state Senator Jack Shelly stopped the expropriation of the Niseis' land, by blocking the bill in the legislature to expropriate the land. Do you know anything about that?

Kenny: No, I don't.

Fry: I don't understand how that fits in. It must have been something that would have superseded and broadened the alien land law--made it apply to the Niseis, too, as well as to Japanese aliens.

Kenny: No, I don't remember that.

Fry: The other thing is that we tried to get a full interview with Jim Oakley, but unfortunately he had his fatal heart attack before we had a session on his work in the attorney general's office. Could you fill in a little and tell me what he did in the attorney general's office for you and what sort of a worker he was?

Kenny: Jim I knew as probably Warren's closest friend among the deputies. So when I got to be attorney general, Jim was still down there in the Sacramento office. I'd appointed him head of the Sacramento office, I think. Jim ran the office for me for several months, then there was a vacancy in the superior court in Sacramento, and Earl appointed him to it. He was, I always felt, Warren's closest friend; I may be wrong on that. I know Warren was pleased when I appointed him to Sacramento.

Oh, Jim then became Warren's secretary.

Fry: Yes, between the time he ran the Sacramento office and became a judge.

Kenny: Then I know he went on and Warren put him on the bench.

Fry: I thought maybe one reason you had appointed him to the Sacramento office was because he would make a good liason between your office and his.

Kenny: Yes, I think that was what I did do.

Fry: Just in my brief conversation with him, it sounded like he was kind of a scholarly type. Is that a correct assessment of him?

Kenny: I think so, yes.

Fry: This propensity of his for research and reading--was this used in the office?

Kenny: I don't remember.

XI KENNY FOR GOVERNOR VERSUS EARL WARREN, 1946

Fry: All during this period you were probably the strongest Democrat in the West.

Kenny: Yes, I was the only one who got elected.

Fry: Yes, right. Everyone else who had gone in in '42 was Republican.

Kenny: Yes. I was the last leaf on the tree! [Laughter]

Fry: Or the first bud in the new dawn, whichever way you want to look at it!

Kenny: Yes, but it was a long way coming.

Fry: But no one knew that in the early '40s. You must have had some overtures for appointments to cabinet level or lower positions in Washington.

Kenny: No, I never did.

Fry: By Presidents Franklin Roosevelt or Harry Truman?

Kenny: No. The newspapers were good enough to rumor it once in a while, but I was happy as a clam as attorney general. I really, really didn't want to run for governor, but it looked like a cinch, and it looked like I would never forgive myself for not having done it.

Fry: What do you mean, never forgive yourself?

Kenny: Well, for having a chance to win the governorship without much trouble. That was the actual thinking that went on.

Fry: "Without much trouble"--against Earl Warren?*

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*Earl Warren beat Kenny by crossfiling and winning both the Republican and Democratic primaries.

Kenny: Yes. Now it sounds crazy; but Warren had to get reelected, and he had made the doctors mad.

Fry: I wondered about that whole picture of the Democratic party as you approached the 1946 election, because in your book you mentioned that you really wanted to try to restore the Roosevelt coalition, which had suffered the blow of Roosevelt's death. You didn't explain to those of us who weren't in California at that time what the Roosevelt coalition had consisted of here--what groups had comprised it.

Kenny: That's a good question. It was labor--union labor--the old age pension people, the people on relief, and things like that.

Fry: Egg heads? (I mean the intellectual community.)

Kenny: Oh yes, the egg heads. That wasn't a very big vote.

Fry: Where were the radicals, then?

Kenny: The radicals were part of the coalition.

Fry: We have different kinds of radicals now. What did you have then? Communists?

Kenny: Communists, and we had socialists. That terrible split between the Communists and the socialists--that hatchet had been buried during the war.

Fry: And you mean it reared its head again in the '46 campaign?

Kenny: It reared its head again by '47.

Fry: Oh, but you didn't have to deal with that in the governor's race?

Kenny: No.

Fry: I did get some indication of a problem with the Communists in that they had just been through an overthrow of Earl Browder, which caused a policy change of more--

Kenny: militancy.

Fry: Militancy and independence; the Communists could run on their own issues and not combine with the major political movements.

Kenny: Yes, they had this sweet thing going and they just couldn't resist some bunglers and marplots who insisted on it. They had "independent political action," separate political action--these were slogans that they had.

Fry: How was this shown in Southern California? Did the Communists down here pretty much go along with that, or did you still have some that were willing to become a part of a camapign?

Kenny: I had some, to the extent that the waterfront, the longshoremen, they stayed along. But they were made nervous. They weren't following that ["independent political action"].

You see, it's terrible dealing with doctrinaire people. Jacques Duclos had written this letter from Paris. I was in London a couple years ago and went down to a meeting in the Quaker meeting hall, and Duclos was one of the delegates who made a speech.

Fry: Oh really. Still holding forth?

Kenny: Yes. He adhered to the "Duclos doctrine." I used to say if we'd only taken his fountain pen away from him, we'd have had a lot less [laughter] trouble.

Fry: Who were the Communist leaders in Southern California at that time? I haven't really asked anybody this because I've been talking to so many Earl Warren people and it wasn't relevant.

Kenny: I can think of a little fellow, but I can't remember his name. [William] Schneiderman was the chairman--

[End tape 1, side 2; beginning insert from tape notes]

Kenny: --of the Communist party in California then.

Fry: Did he bring the Communists along with the Democrats for the '46 elections, or did he choose to remain aloof?

Kenny: I guess they had to come along; there weren't many of them. It's like the old question during the war, "How many regiments does the Pope have?" They couldn't count many in their ranks. Dealing with any sort of doctrinaire believers has little value.

Fry: Who else were the doctrinaire leaders here? The only ones I have a note about are Eleanor Abowitz and Dr. Murray Abowitz--

Kenny: Dr. Murray Abowitz was my doctor and still is, now. His wife left him and now has married another doctor, up here near me; they both live nearby. He was doctrinaire. So was she.

Fry: Within the structure of the CPA?

Kenny: No, just in the doctrines and beliefs.

Fry: Let me check out some speculation with you: Did they bring any pressure on you to run (as a sort of symbol, I guess it would have to be, if this theory is right) so that your campaign could be a trial run to test Communist strength in California?

Kenny: Nobody brought pressure on me. I was already going to run. Anyhow, that's a pretty silly theory.

Fry: I had a little trouble with the concept of you symbolizing communism to the California voters. I looked up what Time magazine* said because I thought they'd have picked it up if anyone would, but all I could find with pink inferences was references to your CIO Political Action Committee connections.

Kenny: Yes. They didn't have much to hang the pink label on.

Fry: I need to straighten out something about your decision to run. The speech you gave June 10, after your primary defeat before the general election--

Kenny: Oh, the district attorneys' convention on Catalina?

Fry: Yes. It sounds a little as if you had decided first to give up the attorney generalship, then to run for governor.

Kenny: No, I ran for governor and gave up the attorney generalship to make way for [Edmund G.] Pat Brown's race.

Fry: That's the way I'd understood it, until I read that speech.**

In that conference that was held in your office in late February, 1946, when you developed the slate, Democrat Oliver Carter came off without any office to run for.

Kenny: He wanted attorney general and so did Pat Brown. And Carter was lucky, because Pat Brown was the one who ran and he lost. All the Democratic candidates lost.

I was the one who'd thought of Will Rogers, Jr., to run for U.S. Senator, but I hadn't counted on [Democrat] Ellis Patterson staying in the primary race too.

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*"Man With a Charm," Time 47:22, March 8, 1946.

**See Appendix II.

Fry: What did that battle for the senate seat do to your campaign in the primaries?

Kenny: It distracted everybody from me. Too many people went to the polls to vote for either Rogers or Patterson and just didn't pay any attention to me.

Fry: You mean the voter just didn't notice you enough, so when he was faced with a ballot with Earl Warren's name on it for governor--

Kenny: Sure. Who was Robert Kenny? Never heard of him.

Fry: I thought you might have had some campaign funds siphoned off, too, for the senatorial primary battle, or was it the other way around, you could get more party funds because you had no primary contest between Democrats?

Kenny: Oh, the Democratic party was papier-maché in those days. They never assisted in elections. They never had money.

Fry: Where did the funds come from for Democratic candidates? Not yours particularly-- I believe you said in your book that yours were largely your personal money.

Kenny: Yes. I put in about $25,000 of my own money, and I tried to get the IRS to let me deduct it, but they wouldn't. [Laughter]

Fry: You mean as a business expense?

Kenny: Sure, as capital outlay for profit that ended in loss, under the IRS Act of 1939 [?]. But the IRS wouldn't go along with that.

Fry: Did Democrats get any lump sums from labor unions then?

Kenny: Oh, no. That came along much later. We got no labor money then.

Fry: What about Ed Pauley and any other wealthy Democrats who could make big contributions?

Kenny: I don't remember Pauley coming forth with the funds.

Fry: Maybe that was only when Roosevelt was alive?

Kenny: Yes, he helped then.

Fry: James Roosevelt was a possible candidate for governor in 1946, too, but--

Kenny: He was my idea. [Unclear] and I were in Palm Springs and we found out Roosevelt was staying at the same hotel. So we asked him to talk with us, meet with us, and he wouldn't even see us. I never did know why. Anyhow, that eliminated him as a candidate.

Fry: I noticed in your book that at that meeting in your office to select candidates, you insisted one be a woman. Why was that important then?

Kenny: Well, I guess I was just a premature feminist. So we selected Lucille Gleason to run for secretary of state. She's the wife of Jack Gleason, the actor.

Fry: What was the time relationship between Justice Jackson's invitation to you to be an observer at the Nuremburg war trials, and your going?

Kenny: Oh, I was back in Washington and they were telling me that he'd been trying to get in touch with me to be an observer at Nuremberg. And that sounded like the best show in town to me. It was before I announced to run.

Fry: I thought you announced, then the next day left for Nuremberg.

Kenny: Well, wasn't it a little later? I don't know, but everyone said, after I lost, that the reason was that I wasn't here. But it was only two weeks that I was gone, and that two weeks was at the beginning of the campaign, during which I didn't make any mistakes; I was gone and couldn't have. Nuremberg was a chance to get in on a very educational show.

Fry: What about your press coverage?

Kenny: Oh, this was wartime, and I think the election was hardly noticed. I believe, if I remember right, we had the lowest percentage of the electorate voting that we'd ever had.

Fry: The first six months of the year seemed to cover mostly the William F. Knowland [Republican] senatorial campaign. The big news was the strikes--the electrical workers in Los Angeles, and the railroad strike that was finally broken by Harry Truman.

Kenny: Oh yes. Mine was barely covered at all.

Fry: What newspapers did you count as supporting you?

Kenny: The Bee; I could count on them.

Fry: What about Manchester Boddy's paper, the Daily News, down here in Southern California?

Kenny: Boddy supported me for attorney general, but I don't remember if he did for governor in 1946. He may have. Anyhow, it was very slim coverage.

[End insert from tape notes; beginning tape 2, side 1]

XII KENNY FOR STATE SENATE VERSUS JACK TENNEY AND GLENN ANDERSON

Fry: In 1950 you ran for state senate against Jack Tenney, and you couldn't win. He was pretty anti-Communist at that time.

Kenny: I could have beaten him, but the conservative Democrats, the Helen Gahagan Democrats, put in Glenn Anderson, and I couldn't beat them both. [Jack B.] Tenney ran first in the Democratic field. He was a Republican by then and he crossfiled. Tenney was first, Anderson second, and I was a fairly close third.

Fry: Why did you decide to get your old seat back at that time?

Kenny: Well, I wanted to stay in politics, and it seemed to me the best place to stay alive. Besides, I like the state senate. It was a pleasant co-educational [laughter] institution.

Fry: Not very co-educational then!

There is no substitute for EXPERIENCE & ACHIEVEMENT

ROBERT W. KENNY FOR STATE SENATOR is the man sure to beat Jack B. Tenney!

Bob Kenny, a three-generation Californian, has always been on the side of the underpossessed . . . He is one of the ablest liberals in California, and still the hope for the entire West.
—John Gunther in "Inside U.S.A."

Kenny is called "the people's lawyer" because he has a warm heart, a sense of humor, and courage to keep fighting for human rights whether they involve a homeless hobo or a booming business.
—Dean Jennings in Coronet Magazine.

Kenny has the moral courage of his convictions. He does not truckle to the influence of the rich at the expense of the poor. He is not a tool of newspapers or corporations.
—San Francisco Reporter.

Robert W. Kenny did not simply fill the office of Attorney-General. He adorned it.
—San Diego Journal.

a personal word to the people of Los Angeles County

I HAVE BEEN URGED TO RUN FOR THE OFFICE OF STATE SENATOR FROM LOS ANGELES COUNTY FOR TWO PRINCIPAL REASONS:

FIRST, many civic and business groups have expressed to me their belief that this County of more than 4,000,000 people needs in the State Senate the kind of experience I have gained as Deputy County Counsel, Judge, State Senator and State Attorney-General.

SECOND, they believe I can beat the Republican incumbent, Jack B. Tenney. They remember that the people of Los Angeles County have never let me down at the polls. In the 1946 Democratic primaries for the governorship nomination I carried the County with 249,615 votes, against 155,399 Tenney votes for Senator.

MY POLITICAL SUPPORTERS BELIEVE BOTH REASONS ARE IMPORTANT. I AGREE.

This County of our's is bigger than most states—only eight states have greater population than Los Angeles County. The one-man job of representing this great County in the State Senate does call for the widest kind of legislative and legal experience.

Instead of working on problems vital to the people of this County, Tenney has been spending his time in the State Senate working the fear-smear technique overtime.

THIS TECHNIQUE IS DESIGNED TO DIVERT PUBLIC ATTENTION FROM THE GOUGING IN HIGH UTILITY RATES, FROM REPUBLICAN SERVILITY TO BIG SELFISH INTERESTS.

When Tenny's witchhunt extravaganza became too fantastic, he was replaced as chairman of the State Legislative Committee on un-American Activities. Now it's up to us to replace him as State Senator—and I'm in the fight to do it.

I say, let's get back to sane, liberal, confident Americanism—the best defense against subversion of any kind.

Let's get away from this blight of snoopery, smear and suspicion that the Tenneys, Parnell Thomases, John Rankins and Joe McCarthys have been using to smirch our schools, our officials, our State Department.

Let's put our own County in order as a start toward making our own democracy work efficiently, confidently, humanely.

That's a real and immediate job for all Los Angeles County Americans.
LET'S GET ON WITH IT.

Robert W. Kenny

BOB KENNY'S PROGRAM FOR ACTION!

1 **EQUAL REPRESENTATION** for all the people of Los Angeles County. Experienced legislative action to meet the basic needs of the state's biggest county.

2 **IMMEDIATE ACTION** for more low cost housing for veterans and low income families; and for operation of a state rent control system if federal control is discontinued.

3 **INCREASE OF OLD AGE PENSIONS** and unemployment insurance to a point that will offset low buying power of dollars and enable the old and the unemployed to maintain decent living standards.

4 **IMMEDIATE ACTION** for a state full employment bill to stimulate employment without discrimination. Public works in proportion to population in Los Angeles County.

5 **A RIGOROUS INVESTIGATION** of the recent actions of the State Public Utilities Commission in granting unreasonably high telephone, gas and other utility rates to corporations already making record profits.

6 **A BROAD CIVIL RIGHTS PROGRAM,** including Fair Employment Practices legislation against job discrimination.

7 **STATE WIDE ACTION** to attack the increasing smog menace and to bring the vast resources of the state into line to conquer this threat to the health and prosperity of our cities.

8 **ENCOURAGEMENT OF SMALL BUSINESS** and a positive statewide effort to bring to California a balanced prosperity through development of local industry free from control of Eastern monopoly.

9 **INCREASED PROTECTION** and conservation of Southern California's precious water and other public resources.

10 **A CONSISTENT EFFORT** to restore to state government in California the concepts and ideals of the Franklin D. Roosevelt New Deal

BOB KENNY'S RECORD OF ACTION!

✓ As Attorney-General of California Robert W. Kenny spearheaded the fight for the safeguarding of equal and constitutional rights for all the people of California, white, black, yellow, brown, regardless of creed or class. He unified the state to meet the problems of war, as it needs to be unified to meet the problems of peace.

✓ Bob Kenny has served as head of the California Housing and Planning Commission. He knows the state housing problem from the standpoint of action, experience and past achievement.

✓ As Deputy County Counsel, Municipal and Superior Judge, State Senator and Attorney-General of California, Bob Kenny's entire record is one of consistent support for broadened social security measures to help people meet the hazards of old age, sickness and unemployment.

✓ Bob Kenny has spent a large part of his professional life in upholding the rights of labor to full employment, good wages and collective bargaining.

✓ As Attorney-General, Bob Kenny led the fight to outlaw the Ku Klux Klan in California. He headed the California Committee for Fair Employment Practises. He carried to the Supreme Court the fight against the un-American practise of denying Americans the right to live in an area of their own choosing because of race or creed.

✓ Women, and especially working mothers, remember the staunch fight Bob Kenny put up for child care centers and nursery schools.

✓ He was one of the key figures in bringing the $180,000,000 Geneva Steel Plant to the west, breaking an eastern monopoly.

✓ He has served as chairman of the California Interstate Commerce Commission; president of the National Lawyers' Guild; president of the California Housing and Planning Commission; chairman of the District Securities Commission; legal advisor to the Colorado River Board; member of Advisory Pardon Board; member of Western States Region, National Association of Attorneys-General; director of several California business institutions.

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XIII THE ATTEMPT TO RECALL JUDGE KENNY, 1971

Fry: The other thing I have down here (it's now 3:25) is to add the story of that recall movement against you which fortunately lost, when you were a judge. Do you want to put that in?

Kenny: That's after the period. I don't know really about it except--

Fry: Since that isn't in your autobiography, I thought you might want to add it. You were appointed to the Superior Court in 1966. Then--

Kenny: Well, a fellow named [Floyd L.] Wakefield started circulating petitions against Judge Jerry Pacht and me in 1970.

Fry: The note I have is that there was an impeachment bill assigned to the Rules Committee on February 19, 1970, for you and Judge Jerry Pack, and also a judge in San Jose.

Kenny: Well, this is the first I ever heard of that, so it couldn't have made much of an impression. [Laughter] But he did circulate petitions for recall and he didn't get enough signatures.

Fry: And what about the Angela Davis decision, which you had not ruled on, because it had been taken out of your court and given to Jerry Pack?

Kenny: They disqualified me [laughter] and they gave it to Jerry. We were the Scylla and Charybdis then of the right wings.

Fry: Yes. [Laughter] So did you think that was the catalyst--when the ruling came out that she could not be suspended from the faculty of UCLA because she was a Communist?

Kenny: The right wingers were really mad about that. They went ahead with their impeachment. Their problem was that they didn't get enough signatures.

Fry: You wrote me during the throes of their trying to gather signatures that you hadn't realized that in an impeachment they get all kinds of allies from people who have an eye on your job.

Kenny: Yes, sure. It wasn't an impeachment; we were wrong in calling it an impeachment. It was a recall.

Fry: A recall, yes.

Kenny: And in a recall, you not only oust the incumbent, but you elect someone to take his place.

Fry: Right.

Was that an important case that came up as a part of this, in which the state law had to be clarified because it said that you had to get, what, twenty percent or something of the voters in the last election? But you hadn't been on the ballot for about [laughter] twenty years or something like that.

Kenny: Yes, that's right.

Fry: And they couldn't decide how many signatures they had to have for your recall.

Kenny: Poor Wakefield. In this last election he ran as a Republican and came third!

Fry: I guess this last election wiped out a lot of those extreme conservatives, after Watergate exploded?

What could you characterize Wakefield as? Was he just very, very far right?

Kenny: I never met him. Oh, I guess so.

Fry: Where was his district?

Kenny: Down in the southeast part of the county.

Fry: In L.A. County?

Kenny: Yes.

Fry: The noises in the press sounded like the early 50s, again, they were crying "Communist."

Kenny: Yes. Well, that was his people.

Fry: But anyway, you won that one! [Laughter]

Kenny: Yes, my last election I won, and I thought I'd quit while I was ahead. [Laughter]

Fry: I will let you quit now, too; it's exactly 3:30.

[End tape 2, side 1; end interview]

Transcribers: David Tam and Joan Annett

Final Typist: Teresa Allen

APPENDIX I: TWO EXCERPTS FROM A HANDWRITTEN LETTER FROM EARL WARREN TO ROBERT KENNY, DATED JULY 20, 1938.

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1. From Robert W. Kenny, My First Forty Years in California Politics, 1922-1962, first draft of an unpublished manuscript, p. 114.

... he [Warren] believed there was a grave danger of losing our civil liberties in the United States just as they had been lost in other countries. He referred to Mayor Hague's suppression of free speech in Jersey City and declared that he was unalterably opposed to any species of vigilantism - "I believe that if majorities are entitled to have their civil rights preserved, then they should be willing to fight for the same rights for minorities, no matter how violently they disagree with their views - - - I believe that the American concept of civil rights should include not only an observance of our Constitutional Bill of Rights, but also the absence of arbitrary action by government in every field and the existence of a spirit of fair play on the part of public officials toward all that will prevent government from using ever-present opportunities to abuse power through harassment of the individual."

I was delighted with this and announced my support of Warren for Attorney General. Some organization Democrats were horrified. The Hollywood Central Young Democrats passed a resolution saying that "Every loyal Democrat should know that Earl Warren is a reactionary Republican." They then officially repudiated me for my action in supporting him. I received a letter from Tom Mooney in San Quentin, saying that he was going to withdraw his support of me for State Senator unless I repudiated Earl Warren.

The support given Earl Warren by Democrats like me that year was crucial in his career. In the 1938 Democratic primary he received only 308,500 votes to 280,408 for Carl Kegley, the candidate of the Ham-and-

2. From Leo Katcher, Earl Warren, A Political Biography (McGraw-Hill, New York, 1967), p. 109.

record." A few days later, I received a letter from him and a record of the Point Lobos case. The record satisfied me and the letter more than satisfied me, it delighted me. What's more, Warren didn't just stop by sending me the letter. He incorporated most of it in a speech a few days later. That really shook people up.

The letter said, in part:

> . . . . I believe [civil rights] to be the most fundamental and important of all our governmental problems, because it has always been with us and, if we ever permit these liberties to be destroyed, there will be nothing left in our system worthy of preservation. They constitute the soul of democracy. . . .
>
> As Attorney General I would do my best to prevent Hagueism [Mayor Frank Hague, of Jersey City, New Jersey, had used guns and clubs against protesters and pickets. When he was told that this was against the law, he answered, "In Jersey City, I am the law."] from gaining a foothold in California. I am unalterably opposed to any species of vigilantes or to any other extra-legal means of a majority exercising its will over a minority. . . .
>
> I believe that the American concept of civil rights should include not only an observance of our Constitutional Bill of Rights, but also absence of arbitrary action by government in every field. . . .

After receipt of the letter, Kenny announced that he would support Warren.

Reaction came immediately from right and left. The Los Angeles *Times*, recalling Kenny's efforts in behalf of Mooney and his other liberal activities, called Kenny's action "surprising." Neither in any news story nor in editorial comment, however, did it mention the connection between Warren's civil rights stand and Kenny's endorsement.

Democrats were bitter. The largest Democratic club in Los Angeles censured Kenny and passed a resolution which declared, "Every loyal Democrat should know that Earl Warren is a reactionary Republican."

Tom Mooney, from his jail cell, wrote Kenny he would withdraw his endorsement of him unless Kenny withdrew his endorsement of Warren.

"Civil rights, in the context of that period," Kenny said, "meant the rights of labor to most people. It meant the right to picket and march. It meant freedom to protest. Warren, I think, went beyond this. He was saying that the Bill of Rights was an essential—if not the essential—part of the Constitution and, as Attorney General, he would see that it wasn't violated."

Only a few years later, Warren was to have his concept of civil rights tested. But in the spring and summer of 1938 he did not have to do more than state it.

SPEECH FOR CONVENTION OF DISTRICT ATTORNEYS

SANTA CATALINA ISLAND

10 JUNE 1946

ATTORNEY GENERAL ROBERT W. KENNY

(ghosted by Robert B. Powers) — In handwriting, upper right corner

In March of this year, the time had arrived when I found it necessary to make two decisions -- decisions which would be regarded as important in the life of any man. Not only were these decisions important in their effect on me as an individual, but they would also affect the lives of many other people -- those who are as close to me as brothers, and again, those whom I had never seen nor heard of as individuals.

My first decision was significant in that its greatest effect was on people who are close to me. The second decision was significant because it would affect a larger number of people, but fewer of those whose lives had been closely interwoven with mine. This first decision was whether I should continue another four years as Attorney General. I felt then, as I do now, that nothing stood between me and election to a second term. My decision as you know was in the negative, and consequently two of your number are now contestants for the office of Attorney General to succeed me. I then had to decide whether I wanted to, and whether I thought I could, become Governor of the State of California to displace Earl Warren. My decision was that I wanted to become Governor; that I thought I could be successful in the election.

In my decision to give up the office of Attorney General, I did not have to depend on anyone else for fulfillment of my wishes. With few exceptions, we politicians must run for office. We are not required to run from office. Had the proposition appeared on the ballot "Shall Bob Kenny be permitted to leave the office of Attorney General", I feel that a majority of the people of the State and certainly a majority of the district attorneys and the law enforcement officers in the State, would have voted in the negative. You have told me many times that you wanted me to remain in office; that you approved my conduct and management of the State Department of Justice.

No, that was not a decision you or the other people in the State could help me to make. I sincerely believe that in my decision to forego running for reelection, I acted contrary to your wishes.

In my decision to run for Governor, I cannot truthfully say that I received overwhelming encouragement from law enforcement officers. And I make no mistake when I regard as friendly their expressions of disapproval as to the course I had decided upon.

My relationship with you, with the sheriffs, and with other law enforcement officers of the State has been satisfying, pleasant and stimulating. Only in rare instances have I found a district attorney or a sheriff who adopted an unfriendly attitude, or who

disagreed with my fundamental policies. You seemed to welcome my leadership in that most important of public services, the protection of life, liberty and property. No, you and the people of the State of California did not welcome my decisionto relinquish the office of Attorney General. You did disapprove of me as a replacement for Earl Warren. And I can understand that very well. Earl Warren was an old friend; I was a new one. I had had comparatively little to do with prosecutors or law enforcement officers prior to my election as Attorney General. As a judge, yes, I got to know you in court; and as a member of the State Legislature, I got to know you when you appeared before a committee in behalf of or in opposition to some bill. Both on the bench and as a member of the Legislature, in many cases I had to weigh those things you advocated and stood for as against the rights of individuals. And I must admit that in many instances my decisions were influenced by a lack of sympathetic understanding of the obstacles which stand in the way of a law enforcement officer in his efforts to protect the public interest.

Through three years of association with you, I have developed a more sympathetic attitude and arrived at a better understanding. Consciously or unconsciously, I had come to think of law enforcement officers as being repressive rather than protective -- I learned better.

To the newcomer in the field of law enforcement it is amazing, astonishing to listen to the matters discussed at conventions such as this and in peace officers' meetings. "How can we develop better cooperation, a better exchange of information? How can I help my neighbor in the next county more effectively? What can I do to provide better training facilities for peace officers? And how can the status of the policeman be raised to that of a profession?" Discussions as to better working conditions, higher salaries, sick leaves, and vacations takes up but an infinitesimal part of the time in any meeting. In analyzing the agenda of many conferences, I have found time and again that your concern is with the public welfare, not your own selfish interests.

Yes, I was somewhat cynical as a newcomer to the field of law enforcement but my experience has given me new hope for the future of this country resting as it does in hands such as yours. In my three and one-half years as Attorney General, I have come to feel that I, too, am a law enforcement officer; not merely by virtue of holding office but actually through my understanding of and admiration for the profession.

Those things that I was to learn, Earl Warren knew. Since his days as district attorney of Alameda County and throughout his term as Attorney General, he had been one of you, crusading for improved conditions and fighting lethargy and the forces of corruption.

With my decision to run for Governor, many of you found yourselves torn between two loyalties, and most of you, if you truly represent the people of California, decided on allegiance to your old friend rather than to your new one. Well, that is over. The matter is decided. You have as one of your number a "champion in the corner office at the capitol building" and you will have a new Attorney

APPENDIX II continued

General the first of the year selected from among your own membership. So the direction of law enforcement will remain in good and safe hands for California and I hope that when my successor takes office his experience as a district attorney, a law enforcement officer, will make his path smoother than I found mine. As in any other avocation, occupation, or profession, experience is essential -- fundamentally necessary to operation -- I had to get my experience after taking office. Many things that are familiar to you in the field of law enforcement were almost novel to me, and yet one not bound too tightly with the cords of tradition can sometimes improve practices and develop techniques impossible to one whose perspective suffers from too close an association.

Throughout the development of our country, law enforcement was dependent largely on individual initiative and ability as well as character and courage. I emphasize the word individual. During the pioneering of the West in particular, there was actually little need for uniformity of effort and coordination of activities. That time is now past.

Everyone who lives in the unincorporated areas of Los Angeles County adds to the police problem of Chief Horrall. At some time or other, practically every citizen in the 9 Bay Counties depends for protection on the law enforcement officers of the City and County of San Francisco. Hoodlums who may live in one county operate in another. Racketeers, gamblers, and procurers have no regard for county jurisdictional lines. With more than three and a half million automobiles in California, the population, criminal and law abiding, are highly mobile. It means little that one sleeps in a house in Stockton when an hour's drive will bring him into Sacramento. It means little from the standpoint of social gain for one city to be free of vice if the adjoining municipality has racketeers operating card rooms, houses of prostitution, and "gyp-joints" to fleece the unwary. Not only does the citizenry itself move into vicious areas, but predatory criminals move freely from city to city and from county to county. Safe burglars may work San Bernardino, Bakersfield, Tulare, Fresno, Modesto, and Stockton in one week's time, and with reasonable safety from apprehension if the activity of the enforcement officers in the various cities and counties are not coordinated.

In 1934, acting with the other law enforcement officers of this State you secured the adoption of a constitutional amendment which placed upon the Attorney General the duty of seeing that the laws are uniformly and adequately enforced throughout the State. You proposed that amendment because you recognized the statewide character of crime, and the necessity for coordinating the activities of all law enforcement officers.

As Attorney General, my first problem was to establish a policy governing the activities of my office under those constitutional provisions. Two courses lay open to me. First, I could exercise the power given me in the direct enforcement of law, by superseding the district attorneys and sheriffs and exercising their powers. Second, I could adopt the position that the role of the State is

to serve, not to supplant, local officers, and that coordination could be best achieved by developing a spirit of cooperation. All of you know that I chose the latter course.

In my administration of the Attorney General's office, I have sought constantly to improve the functioning of the office with the view of giving better service to the local officers.

I asked legislation granting civil service rights to the deputies attorney general. That legislation passed and will insure a continuity in office for these men upon whom rests the responsibility of advising you. The tendency will consequently be toward uniformity in the interpretation and application of our State laws.

In 1944, I asked and secured the passage of legislation creating a State Department of Justice -- legislation that brought under the Attorney General those State agencies which were designed by you to assist you in law enforcement. In the Department were placed the office of the Attorney General, the Division of Criminal Identification and Investigation, and the Division of Narcotic Enforcement.

To assist you in the better enforcement of the narcotic laws, I asked that funds be made available to employ ten additional narcotic inspectors. The Legislature appropriated these funds, and the men are now at work.

I have sought to vitalize the Division of Criminal Identification and Investigation so that it could perform its proper role of service to law enforcement officers. To that end, I appointed a man familiar to you all, George Brereton as Chief of the Division. We have established a fraud prevention bureau for the purpose of centralizing all information on "bunco" and confidence men. We have revised the procedures of the Modus Operandi Section and have asked for additional men so that this section can be of real rather than paper value to you. We have brought to full strength the personnel of the Fingerprint Section and have set a goal of 48 hour service on all requests for information from you. We have secured additional personnel and equipment for the laboratory of the Division so that it can better serve you.

During the war, you and other law enforcement officers developed the Mutual Aid Plan. That Plan has now been established upon a permanent basis by legislation which I supported, and the administration of the Plan is now in the Department of Justice.

The Zone meetings of district attorneys which were initiated in 1940 have been continued, and I have established Zone meetings of sheriffs, chiefs of police, and constables.

A start has been made in the field of compiling and making available to you information concerning law enforcement techniques. Under my administration training manuals were prepared and distributed to all enforcement officers on Venereal Disease Control, Juvenile Control, Civil Disturbances, and Race Relations. These represent the beginnings of a service which can be developed into something

APPENDIX II continued

of real value to peace officers.

At my urging, and with your support, the Department of Education will shortly appoint a supervisor of police training, and the zone schools which were carried on before the war will soon be reinstituted.

All of these steps have been taken for the purpose of better co-ordinating the activities of law enforcement officers. I realize that only a beginning has been made--that none of the programs initiated have been carried to completion. But I know that we have taken long steps forward in developing better law enforcement for California.

Every man who holds the office of Attorney General leaves the imprint of his aspirations, character, and personality on the shield of California Law Enforcement. This impression may be the tarnished blot of bigotry and corruption or the scintillating device of tolerance and integrity. It may be indicative of greed or altruism, special privilege or the general welfare, cruelty or kindliness.

It was my purpose declared publicly when I sought the office of Attorney General "to crusade with those who seek constructively to improve the way men live together."

These things I have done and with your help we have improved the way men live together in California. Not only is this true of the citizenry in general but also of the law enforcement officers in particular. In the conduct of my office I have laid emphasis on the development of sympathy, understanding, mutual support and comraderie among the enforcement officers of the State. Since we must so much of the time stand shoulder to shoulder fighting together, it is well that in the lull between battles we should relax in an atmosphere of friendship and conviviality.

Fighting together against a common enemy provides a bssis for friendship which makes ridiculous any display of pretention or pomposity. We are much too dependent on one another to permit of any separations by caste or reserve.

Today there is greater unity of purpose, a better understanding, and improved comraderie among enforcement officers than prevailed four years ago. And this improved relationship I regard as being my most important contribution to you.

On the plains of New Mexico stands Inscription Rock. On it are scratched or chiseled the names of the early Spaniards who explored and settled the West. Above each name there is written the phrase, "Paso por Aqui" which in English means "Passed he this way."

This is the last time I shall appear before your convention as Attorney General. But in years to come when you gather to cast off the care of office and relax, I should like you to remember: Paso por Aqui -- Bob Kenny.

SOUTHLAND OBSERVATIONS 8/5/76

Whimsical Warrior of State Politics

BY PHIL KERBY

When Ronald Reagan and Richard Schweiker became the odd couple of politics, I had an impulse to call my old friend Bob Kenny to get his reaction. I suspect that many of his friends had the same urge, but this time Bob Kenny, the most approachable of men, the most generous with his time, was not available and would never be again. He had died the week before.

Kenny, once state attorney general, state senator, judge and onetime candidate for governor of California, would have been delighted with Reagan's maneuver. To Kenny it would have been another marvelous act in the political comedy-drama in which he had been a player and observer for 50 years.

Reagan's unconventional strategem, with its high risk, would have appealed to the unconventional politician in Kenny, who took the play seriously, but not all the players all the time, himself included. In 1937, while running for the state Senate as a Democrat and a leader in Culbert Olson's successful campaign for governor, Kenny scandalized regular Democrats by endorsing a Republican friend for attorney general.

The friend happened to be Earl Warren. Kenny's endorsement was not for friendship alone. In a letter that foreshadowed his later career on the Supreme Court, Warren, asking for support, wrote Kenny: "I believe that the American concept of civil rights should include not only an observance of our constitutional Bill of Rights, but also the absence of arbitrary action by government in every field and the existence of a spirit of fair play on the part of public officials toward all that will prevent government from using ever-present opportunities to abuse power through harassment of the individual."

Ironically, it was Warren (who later defeated Kenny for governor) and the grotesque political era after World War II that ended Kenny's political career—this and his inability to bend before the political winds of the day. Still, had he decided to join the cold war orthodoxy, Kenny could have remained influential in Democratic politics and could have been part of the Democratic revival of the next decade. But the whimsical warrior of California politics had more steel in his makeup than did those fierce fellows who trumpeted their defiance of foreign foes but turned tail before the slightest threat to their own careers.

Returning to law practice, Kenny accepted the defense of unpopular political clients in opposition to the House Committee on Un-American Activities, whose idea of defending the nation was to get a department store ribbon clerk fired for signing an anti-Franco petition 20 years before.

Kenny engaged in no stupendous wrestling match with himself over good and evil. Politicians who permit the public to view such agony usually stage-manage the event to soften the impact of their predictable surrender. Kenny did what he did almost casually, although he understood that the cost was exile from the public life he relished. As a politician he had a mortal flaw. He lacked the requisite killer instinct to garrote either a principle, a friend or an opponent.

His weapon in politics was a civilized sense of humor. The barbs sometimes were sharp, yet never tipped with poison. About one opponent he said, "He has a mind like a miller bug—it just skates on the surface." Asked years ago by John Gunther where a former governor was living, Kenny replied, "East Oblivion."

Kenny dwelt there for years himself until former Gov. Edmund G. Brown appointed him to the same Superior Court Kenny had left 30 years earlier. One of his characteristic decisions knocked out the Los Angeles County loyalty oath, which was not an affirmative oath at all, but one of those odious test oaths that had multiplied in the country like toads in a rainstorm.

Accomplished in the law, Bob Kenny was a learned, literate and gentle man whose knowledge and interests extended well beyond the courtroom. But I have left out the most engaging reason why his friendships cut across all lines. Knowing him was just sheer fun.

SF Chronicle, 7-22-76

Robert Kenny Dies at 74 In La Jolla

La Jolla

Robert W. Kenny, who never finished law school but became state attorney general and a Superior Court judge, has died in a La Jolla hospital.

Kenny died Tuesday at Scripps Memorial Hospital. He was 74.

A native of Los Angeles, Kenny graduated from Stanford University in 1921 and started on a career in journalism, working for United Press, the Chicago Tribune, and the Los Angeles Evening Herald. He also was a correspondent in London and Paris before returning to California and a career in public service.

During that time, according to Kenny's law partner, Robert Morris, Kenny decided to take a law course to broaden his education. After the one course, he passed a bar examination and was admitted to the bar in 1926.

At age 29, he was appointed a Municipal Court judge by Governor James Rolph and was named to the Superior Court bench two years later.

In 1938, he was elected to the state Senate, where he introduced bills proposing rapid transit for Los Angeles and an end to capital punishment.

After serving in the Legislature, he was elected state attorney general in 1942. Four years later, he ran unsuccessfully for governor on the Democratic ticket against Republican Earl Warren.

Kenny then returned to private life until 1966, when he was named again to the Superior Court bench by Governor Edmund G.

Los Angeles Times, 21 July 1976

Robert W. Kenny Dies; Colorful Politician, Judge

BY MICHELLE TUCHMAN
Times Staff Writer

Robert W. Kenny, former gubernatorial candidate, state attorney general, state senator and Superior Court judge, died Tuesday at Scripps Memorial Hospital in La Jolla. He was 74.

Acclaimed as a colorful and accomplished public figure, Kenny was often called a man ahead of his time. As state senator, he introduced numerous bills. Some of his proposals, like rapid transit for Los Angeles, took years to be recognized.

He also introduced a bill outlawing capital punishment during each session of his four-year senatorial term.

As attorney general, Kenny filed a brief in a case involving segregation of Mexican-American schoolchildren in Orange County, anticipating the U.S. Supreme Court's 1954 school desegregation ruling by more than 10 years.

Kenny was never one to mince words. Following his appointment to the municipal bench in 1931, he said, "A judge, you know, is just a fellow who knew a governor."

At the time, he had not practiced law for the required five years and had to persuade then-Gov. James Rolph to postdate the commission nearly a month to Sept. 13, five years to the day after Kenny gained admission to the Bar.

Please Turn to Page 2, Col. 1

- Judge Robert W. Kenny

Veteran Politician Robert Kenny Dies

Continued from First Page

Kenny was born Aug. 21, 1901 in Los Angeles. A 1920 graduate of Stanford University, he had a varied career in journalism as financial editor of The Times and reporter for the Los Angeles Express, the Los Angeles Herald, the Paris Tribune and United Press here and in London before becoming a lawyer.

He entered law school on the advice of a fellow reporter and attended classes in the morning before beginning work on his courthouse beat. Kenny won no attendance records while at the USC or Loyola law schools, but did manage to pass the Bar exam in 1926.

He was appointed a Los Angeles deputy counsel in 1927. He worked on the 1930 gubernatorial campaign of Rolph, a long-shot winner who eventually appointed Kenny to the municipal bench and later to the Superior Court.

After his four-year term as a state senator, Kenny was elected attorney general, a job he found "delightful, because nobody expected you to do anything, so you could get into anything you wanted—any situation that came under the heading of 'poor enforcement of the law.'"

Kenny, a Democrat, lost his first election in 1946 when he ran for governor against incumbent Gov. Earl Warren.

During his political career, Kenny was a light-hearted campaigner who treated the opposition with humor. He once said of an old foe, "I like his whole air of insincerity."

After his gubernatorial defeat, Kenny worked as a lawyer, mostly handling civil liberties cases. He was chief counsel for the Hollywood Ten before the House Un-American Activities Committee.

Then, in 1966, in one of the last acts of his administration, Gov. Edmund G. Brown appointed Kenny to the Superior Court he had left to become a state senator nearly 30 years earlier.

He retired from the bench last year. He was a widower.

Kenny also served as president of the National Lawyers Guild for seven years, longer than anyone else in its histo-

New York Times, 22 July 1976

Robert Kenny, Attorney, Dead; Led National Lawyers Guild

By ALFRED E. CLARK

Robert W. Kenny, who became Attorney General of California and also served as a judge even though he never finished law school, died Tuesday at Scripps Memorial Hospital in La Jolla, Calif. He was 74 years old.

Mr. Kenny was a colorful figure in state politics for many years and, in 1946, ran unsuccessfully for Governor against the incumbent, Earl Warren. In that instance, Governor Warren set a precedent by winning both the Republican and Democratic primary nominations.

Mr. Kenny spent six years as a newspaperman after his graduation from Stanford University in 1921. At a time when he was working as financial editor of The Los Angeles Times, Mr. Kenny noted that several local reporters had been appointed to judicial offices.

Mr. Kenny decided that he, too, would become a judge. He studied law privately for a year and a half, then passed the California bar examination. No judicial appointment being immediately forthcoming, he left newspaper work and got a job in the county counsel's office by placing first in a civil service examination.

Backed Roosevelt on Court

Before the emergence of Franklin D. Roosevelt, the Democratic Party in California, was at a low ebb. Mr. Kenny plunged into politics as a liberal young Republican with Prohibition repeal as his main issue.

His efforts helped materially in the election of James Rolph Jr. as Governor in 1930, and Mr. Kenny was appointed to the Municipal Court in 1931. The Governor elevated him to the Superior Court a year later.

He continued his interests in politics on both the state and federal levels and, when President Roosevelt's "Court-packing" move on the United States Supreme Court created a national furor, Mr. Kenny leaped into the battle on the President's side.

Out of that battle grew the National Lawyers Guild, and he was elected president of the organization in 1940, and held the post until 1948. The guild was in the forefront of defending many liberal causes.

Mr. Kenny switched to the Democratic Party and became well known as a liberal lawyer fighting civil liberties cases against the House Un-American Activities Committee.

In 1957, he was one of the lawyers who on behalf of 23 Hollywood writers and actors won a Supreme Court review of their challenge to the right of the motion picture industry to blacklist them because they invoked the Fifth Amendment.

Mr. Kenny became State Attorney General in 1942 and then retired to private practice after his defeat by Governor Warren. In 1966, he was named again to the bench by Gov. Edmund G. Brown.

There are no survivors.

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THOMAS H. KUCHEL

Regional Oral History Office
The Bancroft Library

University of California
Berkeley, California

Earl Warren Oral History Project

Thomas H. Kuchel

CALIFORNIA STATE CONTROLLER

An Interview Conducted by
Amelia Fry

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INTERVIEW HISTORY

Dates of Interviews: November 6, 1969; March 2, 1971; November 13, 1972

Place of Interviews: In the Washington, D.C. law offices of Wyman, Bautzer, Rothman & Kuchel on Connecticut Avenue.

Those Present: Senator Thomas H. Kuchel and the interviewer; Willa Baum sat in on the first session.

Thomas Kuchel is best known as the U.S. Senator whom Governor Earl Warren appointed to fill Vice President Nixon's seat in 1952 and who climbed to be Republican whip. This interview had to conform to the objectives of the Earl Warren Oral History Project, so as a crucial component of that series its goal was limited to the documentation of the Senator's earlier experiences as state controller and his relation to Governor Warren.

Kuchel and Warren had known each other as tillers in public service fields ever since Kuchel was a legislator from Orange County when Warren was state attorney general. In 1940 Kuchel won the state chairmanship of the Republican party, a post Earl Warren had left four years before. After a stint in World War II, in 1946, Kuchel was appointed to fill a sudden vacancy in the state controller's chair, and the young journalist-turned-lawyer was on his way to becoming a powerful figure in California public affairs.

This was at a time--the late 40's and early 50's--when three of his Republican contemporaries were skyrocketing to national attention also: U.S. Senator William F. Knowland, future president Richard Nixon, and Chief Justice Earl Warren, all Californians. Kuchel was to attain national prominence in the Senate as Republican whip, only to be shot down by his own party in the primary of 1968. One wonders if "shot down" remains an accurate description, however, when one sees the man as private attorney with a thriving practice full of cases that he accepts because they afford him an inherent fascination; then, too, there was the interlude in the United Nations as United States Representative.

As a statewide elective officer, the controller oversees the disbursement of state tax monies and also sits on sixteen boards and commissions. Among them is the Board of Equalization, which during Kuchel's time was engaged in

an internal struggle over whether to separate from its subdivision, the State Liquor Control Board, a group distinguished by rumors of kickbacks in the granting of liquor licenses. The Committee to Appoint the Franchise Tax Commissioner, of which the Controller was also a member, was another nest of questionable practices slated for clean-up action. According to the State Assembly's PARTIAL REPORT ON THE SAN FRANCISCO OFFICE OF THE FRANCHISE TAX COMMISSIONER, January 1949, some of the employees were working nocturnally as private income tax specialists for citizens, whose tax reports could conceivably be subject to official review by the same Franchise Tax Board staff members. There were other controversies which Kuchel dealt with that centered on competing interests rather than corruption, like the old-age pension constitutional amendment and the equalization of property taxes. It was a lively time to be in the controller's seat.

Kuchel's administration of the office itself was marked by reorganization along more modern and efficient lines; he also tackled the complex procedures in a way that proved to be precedent-setting, as in making tax court opinions binding on future rulings of the controller's office. Politically, Kuchel enjoyed an enviable built-in clout that comes from the controller's power to appoint inheritance tax appraisers in every jurisdiction in the state. This largesse in patronage is rare in the California habitat, where the usual reward system that fuels American political parties is hampered by the comparatively miniscule number of appointive positions available to the winners. Kuchel's adherence to the somewhat depoliticized procedure of appointing the appraisers through county panels no doubt reduced the abuse of this power; it also signifies the meshing of his outlook with the Hiram Johnson Progressive goals still inherent in the Earl Warren era, one of which was independence from political party influence. The fact that Kuchel did not remove the incumbent appraisers and replace them with appointees of his own, as a later controller did, also speaks for his respect for a proper use of political strength.

As for Kuchel's relation to the three-way struggle for dominance of the Republican Party after 1953, when Earl Warren left California for the U.S. Supreme Court, the Senator's patterns of alliances among the power blocs come into view in several ways: in his reciprocal admiration for Earl Warren; in his statement that the Knowlands (Senator William and his father Joseph, publishers of the Oakland Tribune) never supported him; in his widely-known and early opposition to the John Birch Society; in his refusal to endorse Republican Barry Goldwater for president and George Murphy for U.S. Senator in 1964; in his aloofness from Reagan's campaign in 1966 after Reagan refused to disavow support for the Birch Society; and in Kuchel's ensuing defeat for re-election in 1968 (by Max Rafferty) in his own party's primary, referred to as "the disciplining of Kuchel" by many observers. Two years later private attorney Kuchel must have added many a voter to the Reagan camp when he publicly announced his support for the governor's re-election in 1970. This coup on Reagan's part was particularly interesting because after Kuchel's defeat, he remained steadily at his post in the Senate even though he was a lame duck, to make sure the Redwood National Park bill--which Reagan had opposed--would go through.

The first, short, session, held in November, 1969, was recorded in his law office in Washington, D.C. It was comfortable, spacious, and furnished with a casual couch and side chairs for visitors. Willa Baum sat in briefly during that 1969 session, which was primarily exploratory. This interviewer particularly remembers the competent painting by his mother of the family's Episcopal church. A year and a half later, in the spring of 1971, he set aside time for a longer session on his California years. For this we used the conference room, sitting across from each other, dwarfed by the long table but revelling in the space as it became cluttered and strewn with outlines and research papers which he was handed from time to time to stimulate his memory. Lunchtime came, and from somewhere the Senator brought in sandwiches and potato chips, serving the lunch graciously, with coffee to order, so that our interviewing could proceed with little interruption. (It might be noted for history that afterwards, to the increasing comfort of the interviewer not to mention the secretaries, he insisted on clearing away dishes and scraps himself.) The final session was held in the same conference room the afternoon of November 13, 1972. In both of these he warded off any interruptions concerning his legal cases and his pro bono publico duties so that we could tape in peace and quiet.

Kuchel greets a visitor with warm enthusiasm. In fact, his whole-hearted approach to life may be one of the most consistent facets of his personality, one that persists in many contexts. He was obviously enjoying his cases dealing with the world of sports; he likewise viewed with relish the prospects of representing the public in a dispute between the Washington Symphony and the musicians' union although he admits in the interview, "I really can't afford the time." Later, in our telephone calls about the interviews, he often conveyed a quiet excitement of his discoveries in yet another scene, a sense of the historic significance of events in the twenty-ninth session of the General Assembly of the United Nations, to which President Nixon had appointed him United States Representative.

By the time he received the transcript to review, he had made the decision to move "home" to Southern California and to the firm's offices in Los Angeles. There his law practice became even more demanding.

Even before his call to the United Nations, he had moved his home base back to Southern California and his work to the firm's offices in Los Angeles. Meanwhile, as part of the editing going on in the Earl Warren Era series, Joan Annett of this office was checking over Kuchel's transcript, putting in headings, and noting dubiously-spelled names, sorting out queries for Kuchel where meanings were not clear--the sort of ambiguities that are inevitable in converting the spoken word to the written. His law practice was becoming even more demanding and it was plain that heroic effort would be required if he made time in his schedule to check the transcript. But notwithstanding the move, the re-entry from the United Nations, and in spite of the fact that one copy of the transcript was lost either here or there and another sent (on October 20, 1977), he did make time, he did read it thoroughly and make the necessary corrections, and he did mail it to this office April 17, 1978.

As this interview goes to the final typist, limited in focus as it is, neither Kuchel nor the university have given up hope that time can be arranged for the documentation of the rest of his story--if not produced by our office, then perhaps as a part of another series such as that underway by the Former Members of Congress organization. Whatever the means to accomplish the task, it will be a large and significant hunk of twentieth century history as well as the story of one whose reward for a zest for living is a lot of hard work in public service.

Amelia R. Fry
Interviewer-Editor

30 August 1978
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

I FAMILY ROOTS IN ANAHEIM

[Interview 1: November 6, 1969]
[begin tape 1, side 1]

Grandparents and Parents

Fry: You were born in Anaheim in 1910. Your grandfather helped to found Anaheim, is that right?

Kuchel: Anaheim was founded by a group of immigrants, mainly German, who had come to this country prior to that time and had settled in San Francisco. They formed a vineyard society and decided to go to Southern California and see what areas were available. I guess it was in the late 1850's. I think they went down in 1857 and I think Anaheim was founded in 1859.

My great-uncle Christian Kuchel--the artist of motherlode days--took a trip down there to look around. The folklore in the family is that he looked around down there and came back and said, "There's a lot of good property down there that can be settled on."

Fry: Well, that was probably the understatement of the century: that this might be good land to settle on! [Laughs]

Kuchel: Oh, boy. Just think, just think! Incidentally, my uncle was a lithographer. The Bancroft Library has many of his sketches, including one of Los Angeles.

Fry: I'd like to know a little about your father and mother.

Kuchel: My father, Henry Kuchel, was born in San Francisco in 1859 and was brought, actually, as a babe in arms to Anaheim by his father and mother. He grew up in Anaheim.

In 1870 the Anaheim Gazette, a newspaper, was founded; my father who was eleven years old then, delivered the first issue of that paper on horseback. He subsequently purchased it and published

Kuchel: it. But first he went back to San Francisco as a young man and worked for the San Francisco Examiner when George Hearst, the father of W. R. Hearst, had it. He wrote a little sports for the paper. He also worked for the San Francisco Chronicle for a short period of time.

Then he returned home--I guess in the late 1880's. I'm ashamed to say that I do not recall when he and my mother were married, but he purchased the paper about 1887. I figure that this is the date because when he passed away in 1935 he had been publisher of the Anaheim Gazette for forty-eight years, so that adds up to him having purchased the paper in 1887.

My mother, Lucretia Charlesworth Bailey, was born in 1870 in Texas, the daughter of a Georgia-born physician and surgeon, George Henry Bailey, who had been a commissioned officer in the confederate army. I have the medal for bravery that was given to my Grandfather Bailey, for the Battle of Sabine Pass, in Texas. Each member of the confederate garrison was given such a medal. Theirs was an historic victory over the yankee navy.

Fry: Oh yes, that was quite an important battle.

Kuchel: My Grandfather Bailey was gone before I came along. My brother Ted [Theodore Bailey Kuchel] who is ten years older than I am, remembers him. I guess Grandfather Bailey was a peppery little guy. He didn't want to take his oath of amnesty after the Civil War. He was a real dyed-in-the-wool confederate. Immediately following the war he went to Mexico, but then returned. He couldn't stand it, and he took his oath of amnesty, which I have on the wall of my office. It's kind of interesting.

Subsequently he came to California. He practiced medicine in Los Angeles, in San Diego County, and finally in Anaheim. And there my mother and father met. Grandfather didn't want my mother to marry my father because he didn't like northerners. He had deep feelings.

I lost my mother just last November. She was ten days away from her ninety-eighth birthday and extremely alert mentally up until the time that she went to her reward.

It's rather interesting that in 1960 the California Press Association elected my father to the Newspaper Hall of Fame in California. Since that time a picture of him and a little biographical sketch were on display outside the governor's office in the state capitol in Sacramento. At least I've seen it there. Maybe they've taken it all down by now.

Fry: I hope you have a few pictures of your father and his printing establishment. We'd like to illustrate the interview.

Kuchel: Yes, I think I do, and if I do, I'll have copies made. I have some of those things, and some of my mother's. My Lord, when my mother died, we went through her effects. It was really quite touching. She had saved some of the love letters that my father had written to her. That's kind of sweet.

Fry: Yes it is. Had she any of the papers from her father?

Kuchel: No. At home, I have that medal for bravery and I have a little daguerreotype of him.

Fry: No old Civil War diaries?

Kuchel: No. My brother has the Bible that the confederates took from one of the yankee gunboats which they captured at Sabine Pass. But it was just a great big Bible that was on board one of the gunboats. These three boats came up the Sabine River and the Confederates held their fire until they were all up there close and then just boomed the hell out of the last one!

Fry: That story is an old Texas tradition.

Kuchel: Are you a Texas girl?

Fry: Yes. [Laughs]. Was your mother also a die-hard confederate?

Kuchel: No. I suppose that was because they moved to California. You see, my mother was born in 1870. Of course, they were all old-fashioned southern Democrats. But my father was a Republican, so my mother became a Republican.

Fry: You were born in 1910. By that time your father was well-launched with his newspaper.

Kuchel: Yes, and another thing you should know is that my father became blind that year.

Fry: The year you were born? I didn't know that.

Kuchel: Yup. That was too bad.

Fry: What did this do to his newspaper work?

Kuchel: My mother began to work on the paper with him, and my father had a brother who was part owner--Uncle Charley. So they continued publishing the paper and my brother grew to manhood. But while my

Kuchel: brother was at USC, he had to quit and come back because my father was then getting to the point where he couldn't stay on top of it. So my brother ran the paper and then sold it some ten or fifteen years later. I regret to say that it's defunct now. It's difficult these days for a weekly to compete with a daily newspaper. You know what I mean.

Fry: Oh, sure.

Growing Up in Anaheim, 1910-1928

Fry: I'd like to know something about "middle-aged" Anaheim during your childhood.

Kuchel: Well, it was one of the oldest settlements outside of the mission town of San Diego. They called Anaheim the mother colony. Anaheim was a small town. I think it was quite a cosmopolitan small town. There were a lot of Mexican families. I learned to speak Spanish playing with Mexican children. Then, as I grew up, we had a substantial Japanese and Nisei population. They were the greatest people tht you would ever want to meet in your life.

Fry: Were they very much a part of the community?

Kuchel: Oh yes, particularly the children. Although I remember that in those days they all had their Japanese schools which they would go to after public school and learn Japanese. But they were clean, honest, hard-working people--and loyal Americans. It's the exception that you would think about. It was an excellent group. One of the Nisei that I went to school with was foreman of the county grand jury last year in Orange County. He came back after the relocation. (Issei is a Japanese-born person who lives in this country, Nisei is an American-born Japanese.)

Fry: Was it still surrounded by agricultural lands?

Kuchel: Yes, and I rather think that it maintained its original boundaries.

[Phone rings; Kuchel answers]

Kuchel: I guess I'm a soft touch. Mayor Walter Washington is calling me. I know what about. He's going to ask me to represent the public in arbitrating a dispute here [in Washington, D.C.] between the musicians' union and the symphony. And I want to be a "good citizen" so I guess I'll do it, but I really can't afford the time.

Fry: I think the symphony musicians are going to need your arbitration in San Francisco, too.

Kuchel: For me to be taking on all these things is just ridiculous--Well, let's go ahead with what time we have left now and then we'll interview again and spend some more time at it, because I really should excuse myself in just a very few minutes.

Fry: All right. What were your outside activities when you were a school boy?

Kuchel: Oh, I played on the lightweight football team, and I ran the one hundred yard dash and the two-twenty on the track team. And I was student body president of my high school when I was a senior. Oh, yes. Those were very happy days It was a great school. It wasn't a large school--just a few hundred students. Wonderful teachers. Very good.

Early Interest in Public Affairs

Fry: When did you come of age politically? Do you remember your first interest in outside issues?

Kuchel: Well, my father liked to keep current and I did do a lot of reading to him as a boy. I'd read him the papers; I'd read The Congressional Record to him.

Fry: How old were you at that time?

Kuchel: It must have been not until I was ready for high school, I guess. I don't recall reading to him as a little boy, but I'd say maybe by the time I was in the eighth grade.

Fry: That must have been a liberal education for you then.

Kuchel: I'll tell you, my father was well-respected. I remember as a kid working around the newspaper office seeing prominent men in politics come in. I remember several governors coming in. I remember "Sunny Jim" Rolph coming over to the house to see my father and I was there. And I remember C. C. Young coming into the newspaper office, and old Sam Shortridge. And I remember going with my father to one of Hiram Johnson's meetings there.*

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*Jim Rolph was the Republican governor of California from 1931-35; C. C. Young was the Republican governor of California from 1927-31; Sam Shortridge was the Republican U.S. Senator from California from 1921-33; Hiram Johnson was the Republican governor of California from 1911-17.

Fry: Where did your father's beliefs lie along the political spectrum? Was he a Hiram Johnson Progressive?

Kuchel: My father was a Republican. He was not of the Progressive point of view. Although in later years he became a quite good friend of Hiram Johnson, in the early days he didn't like him. I think in part it was because we had a man in Orange County who ran for governor and I guess he and my father had been friends. His name was Phil Stanton, the local assemblyman.

Fry: He ran against Hiram Johnson?

Kuchel: Yes, they ran at the same time.

Fry: Sam Shortridge was then U. S. Senator.

Kuchel: Yes, I remember him very well--tall, cadaverous, black suit and black tie. Yes, I remember him coming into my father's office. I remember a great big--I don't know what kind of a car it was--but a black sedan.

The American Bar Journal had a piece about Shortridge a couple of years ago--the old senator who really was a politician. He was going to make a speech in the Palm Court in the Palace Hotel, and a little kid came up to him and said, "Senator Shortridge," (this must be a true story) "is it true that you are God?" And Shortridge said, "No, my boy. But that's a very, very good guess."

Fry: [Laughs]

Kuchel: Isn't that cute?

Comments on J. R. and William Knowland

Fry: I think Joe Knowland shared an office with him in Washington when Knowland was a congressman. He and Shortridge were quite close.

Kuchel: I would think so, surely I would think so. And I've got to tell you this. I think old J. R. Knowland, when I knew him, was one of the nicest guys in the world. If [William] Billy Knowland had had just a little bit of his father's warmth, it would have been entirely different. Billy doesn't bend.

Billy is an important man for you to interview. He and Gardiner Johnson will provide enough material from the Warren opposition viewpoint to balance the other interviews that are favorable to Warren.

Fry: What would be the source of Bill Knowland's opposition? He was loyal to Warren in the '52 Republican Convention.

Kuchel: Oh, really, [softly] I didn't know. You're surely right. Bill Knowland stood up at that convention for Earl Warren when he knew, when Bob Taft had offered him [Bill Knowland] the vice-presidency, there's no question about it. You've got to give Bill Knowland A-plus.

But Bill changed his politics. In the early days, Bill had been quite moderate. He, for example, voted to eliminate the filibuster. When I came along and started voting that way, he had begun to change; he voted the other way. Bill had voted for federal aid to education. But when I started to do it later on, Bill made a speech that he had changed his mind. So, Bill had; he changed his mind.

Fry: This change came about in the '50's in his second term?

Kuchel: Yes. Knowland's comment is absolutely indispensible to what you are doing. He wouldn't tell you this story about '52, I'm sure. He'd tell you--well, he wouldn't tell you that he was offered the vice-presidency by Taft. It would be to his credit that he wouldn't, but he was. I'm sure of it. But he turned it down.

Work and Education as a Youth

Fry: Did you work in your father's newspaper office? Did you write stories?

Kuchel: Oh, sure! I set type, I ran the press, I wrote little stories, I made up ads. You bet I did. I did a little bit of everything except operate the linotype machine. My father didn't want me fussing around with the linotype machine. But other than that I did about everything.

Fry: Was this when you were in high school?

Kuchel: Oh, sure, but even before that. I worked in The Gazette office in grammar school and in high school and during summer vacations when I went to USC.

Fry: How many brothers and sisters did you have?

Kuchel: Just one brother.

Fry: What sort of role did your mother play in this? Did she also contribute to your at-home education? You said she was working in the newspaper office shortly after you were born.

Kuchel: Well, she kept our home. She wouldn't go to the newspaper office every day, but she would go several times a week, anyway. I remember that she would write a column by culling interesting articles from the paper of fifty years before, particularly if people were still alive. I remember that was something. It was a small town, and everybody liked that sort of thing.

Mother was a fairly well-educated woman. She had gone to a private school in Texas when she was a young girl and then she went to a school in Orange County which is long since gone. She was not generally educated like you would be today--she hadn't graduated from college. But I remember she knew astronomy and she used to take me out to look at the stars. She painted well. I'll have to show you the painting out there in the reception room which she painted of the Episcopal Church where she and her two sons and my daughter were all baptized.

Fry: Did you pick up any of this graphic arts talent from your many ancestors?

Kuchel: No, I tried as a kid--but no. One of my brother's daughters is pretty good at that. But no, not me.

The Influence of Hiram Johnson and Earl Warren on Kuchel

Fry: What did you think that you wanted to be at this stage in your life? Did you have any definite idea?

Kuchel: Well, I think that I wanted to be a lawyer when I was a boy, sure. To me, Hiram Johnson was one of my idols.

Fry: He was?

Kuchel: Oh yes, oh my goodness, yes.

Fry: That was in the early twenties when Hiram Johnson was in the U.S. Senate.

Kuchel: He was one of the greatest leaders of his day.

Fry: And you were reading his speeches in The Congressional Record, at this time?

Kuchel: Oh, it was tremendous. As a matter of fact, I remember, now that you've asked me, I would study his sentence structure. He had a great facility of expression, and he could balance sentences off very nicely. He was a really extraordinary man. I worked in his next-to-the-last campaign.

Fry: Did you work rather closely with Governor Earl Warren?

Kuchel: Indeed I did. And I can probably tell you truthfully that outside of my father, I doubt that anyone had the effect on me during my life time that this man did. I am proud of the guidance I received from Earl Warren when I was with him.

I was particularly close to him when I was state controller. I knew him--not intimately--but I knew him from, oh, perhaps a year before World War II. After the war, I returned first to my law practice and then he appointed me controller. From then on, I enjoyed a very unique relationship with him. He had a profound effect on my future. He was a superb public servant. It wasn't just the ideas that he would advocate, it was the way he administered his office. He helped me administer mine.

Fry: As a kind of model?

Kuchel: This is true. He was great. Part of that was that he was a great lawyer.

Fry: You knew him first when he was attorney general and you were a state senator. Is that right?

Kuchel: That's right. I did not know him before.

Fry: And you were relatively young for a state senator, and still learning?

Kuchel: This is true. This is true.

[end tape 1, side 1]

II CALIFORNIA STATE CONTROLLER, 1946-1952

[Interview 2: March 2, 1971]
[begin tape 2, side 1]

Earl Warren's Appointment of Kuchel to Controller's Job, February 11, 1946

Fry: I thought today we would just talk about what you did when you were controller. The first question I was going to ask you was about your appointment to the office of controller. When did you first find out about it? Were you expecting it?

Kuchel: Well, I didn't expect it at all. As a matter of fact, the thought of being appointed state controller was absolutely foreign to me. My recollection is that I hadn't been out of the military service very long and I was again in my country law firm in Anaheim, my home town. I remember my wife was pregnant. The governor called me and he said, "I'd like to appoint you state controller." You know we've lost Harry Riley."

Fry: He had died?

Kuchel: Yes, he had just died. And I said, "Well, thank you Governor. I just can't give you an answer now. May I have a couple of days?" He said, "Yes, but no longer, because I would like to make the appointment."

I remember I talked it over with my late father-in-law. My own father was gone then. My late father-in-law was a good man and a banker. He said to me, "Yes, you should take it. The experience will be great for you no matter what you do. If you want to stay in government, it's great. If you want to come back to a law practice, you'll be a better lawyer because of it."

Fry: What had Warren told you that he was looking for in a man for this job, and what did he want the job to accomplish?

Kuchel: Oh, he considered, I think, the fact that I was a lawyer and that I had been in the state government, albeit in the legislative branch. This is self-serving, but I think he also gave me credit that I would share his concern for the public interest. Anyway, I called him back and I told him two days later that I would accept it.

He did outline in the beginning the problems of the controller. I think that he did this when he called me into his office to tell me that he wanted to ask me if I was interested in the appointment. You see, the controller in our state government sits on a number of quasi-judicial boards,* so it's a rather responsible and powerful job. Therefore, I think truthfully, it requires the services of people who will not be pushed from one point of view to another because of any private interests.

For example, the State Lands Commission, then and now, has got to do with problems relating to state lands and petroleum reserves. Therefore, obviously a man would have to sit in judgment with respect to the oil interests. At that time, the controller sat on the Board of Repossession. In those days the Board of Repossession had to do with not simply sales tax and equalization of realty taxes, but also with the enforcement of alcoholic beverage control. So obviously you had that constant problem of determining the public interest vis a vis the alcoholic beverage industry.

Fry: That was one of the lobbyist Arthur Samish's strongholds, wasn't it?

Kuchel: I remember that era. My God, I've forgotten a lot of it. Yes.

Fry: What did Warren outline to you as the problems of the job?

Kuchel: I think for a man to be a public servant of any competence in the controller's office, he had to be his own boss and make up his own mind on the decisions which would come before him--not simply in the controller's office but as a member of these boards and bureaus. I'm almost positive that he sat me down face-to-face to describe the office as he saw it. Then I said I'd like to have a couple of days to think about it. That's when I contacted my late father-in-law.

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*According to the 1950 Blue Book, "In addition to the duties of his office itself, the State Controller is an ex officio member of the State Board of Equalization, the Franchise Tax Board (of which he is the chairman), the State Lands Commission, the State Board of Control, the Water Project Authority, the State School Building Finance Committee, the Veterans Finance Committee of 1943, and other important state boards.", p. 350.

Kuchel: In later years, I used to tell the governor that I thanked the lord that he hadn't changed his mind in the two days that I was wondering about it. I said, "I'm glad that you offered it to me and that I took it." It was a little private chuckle.

Disputes on the Board of Equalization

Fry: At this time [William G.] Bonelli was on the Board of Equalization and was apparently under suspicion of corruption in liquor licensing.

Kuchel: He was the member of the Board of Equalization from the Southern California district.*

Fry: There was some conjecture, apparently, that your being appointed would make, at long last, a majority on the State Board of Equalization so that Bonelli might be ousted. He had a lot of private interests that were interfering with his proper functioning. Were you aware of this?

Kuchel: Oh, it was in the papers you know. Wasn't there an indictment back there in those days too?

Fry: Yes, I think he's in Mexico now.

Kuchel: He's dead now.

Fry: Oh, is he?

Kuchel: He's dead. Yes, I read that in the paper not too long ago.

Fry: Well, do you think this had anything to do with your appointment? This was the theory at the time.

Kuchel: I think that the governor wanted to be sure that his appointee would call the signals the way he thought they ought to be called. I don't think it had anything to do with--well to begin with, to use your phrase "ousting"--you couldn't oust a person on the board. That's an elective office.

Fry: I think maybe this was as chairman. Was he chairman?

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*The 4th District

Kuchel: During some of the time I was there he was chairman, but honestly, Mrs. Fry, I think the chairmanship was rotated. And let's see who the other members were--

Fry: The other members were--

Kuchel: Jimmy [James H.] Quinn, George Reilly--

Fry: And Jerrold Seawell.

Kuchel: But who before Seawell then? I came on the board before Seawell.

Fry: Well, according to the 1946 Blue Book, which I thought was the one current with your appointment, it was Seawell. He must have been put on very late.

Kuchel: At any rate, there were, in my dim recollection, instances when I cast the deciding vote on the board. I remember that.

Fry: I wish you could give us some idea of the issues that were up at that time.

Kuchel: I have really no recollection.

Fry: There's a story that your former assistant, Ewing Hass, told me to be sure and ask you about. He said that it was during one of your first meetings with the Board of Equalization. You had a problem come up about some bad potato whiskey and you were the swing vote on this. Apparently you were uncomfortable because you knew some members of the board were wheeling and dealing in liquor at the time. Hass said he could only remember the name of the man was Babe, and his last name started with a "P".

Kuchel: Yes, I remember part of that. I don't know whether we should go into the deceased, but that's funny. Without using any names (there may be parts of the families still up there), I remember that I did cast a vote which was the deciding vote. My judgment is that I voted with Quinn and Seawell (or Seawell's predecessor, but perhaps at that time it was Seawell), and against Bill Bonelli and George Reilly. And the party on the side which my vote favored, whom I had never known by name or to see him, came around to my office within a day or two with a friend of mine who was city manager in Sacramento. He said, "That was a correct vote you cast, and it was an honest vote, and I'd like to favor you with a few bottles of whiskey."

But I said, "No, I don't want you to do that." [Laugh]

And he said, "This is good whiskey; this isn't potato whiskey."

Kuchel: I said, "No, please, I don't want you to do that." And he didn't.

That was the story though. [Laugh] Those were some days!

Modernization and Policy Changes in The Controller's Office Under Kuchel

Fry: Apparently when you came into office, Eugene Lee, who has become somewhat of an authority now on state government--

Kuchel: Gene Lee, I don't know him.

Fry: Eugene Lee is a professor of public administration at U.C. He has done a lot of research in state government since you were controller, and he said that you had done a great deal in modernizing the office. He said that the financial administration was in a mess when you took over. So I thought maybe you could tell what you did.

Kuchel: Well, that helps my recollection. When I was appointed there was a terrible backlog of unaudited claims in the controller's office, in part because of mismanagement. I required the people in that particular division of the office to devote themselves exclusively to the auditing of claims for refunds so as to clean it up. I think some went back as much as a year. It was a terrible thing.

Also, there was the disbursement function. The actual drafting of a warrant was pretty archaic. I authorized and received the approval of the governor and the legislature to put in a modern, efficient machine.

Fry: Like an IBM machine or something?

Kuchel: Well, it was before IBM, but it was in those days an up-to-date system. I therefore did away with some of the old-hand labor.

I sought to speed up the process in the inheritance and tax division by which estates would be made more available to probate. Those were some of the things that I remember now.

Fry: Do you remember anything about a change of policy which made it okay for you to base a decision on any previous similar ruling? Mr. Hass told me about this.

Kuchel: Oh, I know what you're talking about; you have a good memory. The controller is a member of the Franchise Tax Board. I was elected chairman of the Franchise Tax Board which has jurisdiction over mainly

Kuchel: the income tax laws of the state. The state in those days followed the federal government in a case like this. If the federal government, the Internal Revenue Service, had a claim against A and they litigated that claim and the court of claims would find in favor of A, and subsequently the Internal Revenue Service had a precisely similar claim against B, the IRS would not look with favor on the decision ruled against it in A's case with respect to B. It reserved the right to proceed independently against B. I didn't like that. It did some violence to my understanding of the laws of res judicata and just my idea of fairness. So we changed the rule and thereafter, within the state government, a decision by a court of competent jurisdiction in California would be applied by the state in each similar subsequent case.

Franchise Tax Board's Investigation of George McLain and the Old-Age Pensioners

Kuchel: I'll have to tell you something else--I guess those are the things you're looking for--we had an old-age pension racketeer in those days. He's gone now too.

Fry: You mean George McLain, who headed up the political movement for old-age pensions?

Kuchel: Yes. He had a charitable exemption which he had obtained for his operation in the normal routine of business from the Franchise Tax Board. But someone had told me that he had dipped into the revenues of his allegedly charitable organization for sufficient money to buy a beautiful fur coat for some girl friend. So I said, "Well, we'll take a look and see." It was true.

So, at my initiation, we took disciplinary action against his organization. And within twenty-four hours a fairly prominent lawyer from his part of the state, Southern California, flew up to see me as to whether I was amenable to changing my position and the position of the board.

Fry: For a fur coat for your wife? [Laughs]

Kuchel: No, he was legitimate. I said, "No, he has it coming to him!" So we had all kinds of things like that.

Attempts to Move the Controller's Office Under a New Department of Revenue

Fry: That reminds me of another story I want to ask you about. But first I want to know more about exactly what was changed when you came in. I understand that as you were coming in, there were proposals being talked about to combine the controller and the Board of Equalization and the Franchise Tax Board into a Department of Revenue. I wondered if this movement was pushed by the "economy bloc" that was in the legislature at that time. We're trying to piece together this economy bloc and find out what its main interests were.

Kuchel: I don't remember at the moment. I might refresh my memory.

Fry: Here are some of the people on the economy bloc. [Shows him a list of purported members.]*

[Short interruption in tape; speakers move to a new topic.]

Fry: What did you feel about the idea of having a more integrated agency?

Kuchel: I have to pull pretty hard to get some of these memories out. I remember one thing I said, and perhaps one might say I was prejudiced in doing it. I said that the independent office of controller was equipped to perform a service to the people: to provide a check or a balance against an "all-powerful executive," and that if the function of auditing claims to determine their validity, and disbursing monies and post-auditing accounts were to be lodged in an agency as a part of the executive branch of government under the governor, it would be an unwise move.

The only other proposal that I recall now was to enlarge the Board of Equalization to perform the functions of a revenue agency, and maybe divorcing the alcoholic thing from it. But I had had some troubles with the Board of Equalization and I didn't want the board to become the Department of Revenue. It's pretty hazy, but I do think that maybe some bills were actually introduced into the legislature to provide for that. I guess creating a Department of Revenue is still kind of an issue out there, isn't it?

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*Hon. Gordon Garland, Hon. Seth Millington, Hon. Jeanette Daley, Hon. Clinton Fulcher, Hon. Chester Gannon, Hon. Earl Desmond, Hon. Clyde Watson, Hon. Rodney Turner, Hon. Ernest O. Voigt, from Legislative Sourcebook 1849-1965, by Don A. Allen Sr., published by the Assembly of the State of California, from the dedication page.

Fry: Yes, and I picked up some other issues that are still with us. You may remember they cropped up occasionally in your office.

Reform of the Property Tax

Fry: Do you remember anything about trying to find some method of taxation that would diminish property taxes?

Kuchel: Oh, yes. I engaged in some fairly heated controversies with some segments of the utilities industry who wanted changes made in the manner of equalizing the real estate value.

Fry: Of the land that the utilities were built on? Didn't they have an exemption?

Kuchel: You see, the state makes an assessment for utility property. I've just forgotten some of those things.

Fry: Well, I was thinking that back in the thirties the utility companies pushed through some kind of exemption. I think both of our memories are a little hazy on this.

Kuchel: I could refresh my memory by the next time you come back here. I'll tell you, I was in the middle of some terribly bitter fights involving the function of the Board of Equalization with respect to property taxes.

Fry: Especially concerning the utilities?

Kuchel: It had to be because that was how the issue arose between the so-called common property and the property owned by some of the utilities.

Relations with Attorney General Fred N. Howser

Fry: I thought you might have some recollection of the time when you were caught in the middle and couldn't issue Warren Olney's pay check for his job as head of the state crime commission because of Attorney General [Fred N.] Howser.

Kuchel: [Reading from Fry's notes] (That infamous [Murray] Chotiner. I see his name down there. I never had anything to do with him, never.) "Attorney General Howser ruled in 1948 that all [Olney's]

Kuchel: men be dropped from the state payroll because no state agency could hire legal counsel without the approval of the attorney general's office." The governor had not bothered to seek approval for his selection of the commission's counsel.

Fry: That's the Crime Commission.

Kuchel: [Continuing reading] "Warren offered to pay Olney's salary out of his own pocket." I think I remember his saying that. "And Tom Kuchel had to be forced to hold up on his [Olney's] pay."

That, of course, is true. When the attorney general would rule against the claim, the controller, as the disbursing officer, should not be heard to overrule it. Nowadays this is not true. If the attorney general approves a claim, the controller then should continue to reserve his own right to disapprove it, running the risk, of course, of going to court and having to be his own counsel. We did that on occasion.

Fry: Oh really?

Kuchel: Yes. We did.

More on The Old-Age Pensioners' Group

Kuchel: My recollection is that it was in connection with that crazy constitutional amendment in 1949. Do you remember that constitutional amendment that was promoted by that faking old-age pension racket? That woman was named as welfare director in the amendment, and the voters adopted the whole package.

Fry: Her name was Myrtle Williams. How did that come into your job as controller?

Kuchel: Because that constitutional amendment authorized the new state director of social welfare to delegate to the state office all the functions of the county welfare offices. And that meant that state warrants were to be used to disburse monies to old-age people. That made the controller responsible for determining their validity. I remember one of my auditors from the Bank of America in a northern county came in and told me he was getting an old-age pension check, just to show the ludicrous lack of administration. Oh, that was a terrible headache.

I had to enter into contracts with the counties in those days. There's a lawyer from Marin County who was a district attorney then. (He's on the bench now. I think Earl Warren appointed

Kuchel: him but maybe Pat Brown did. He's an Irishman and an awfully good lawyer.) The counties asked him to represent them in negotiating contracts with the state, and I represented the state.

I'm telling you, Mrs. Fry, those were rugged days. The people had made a fool of the state in approving this ridiculous amendment. To the people's credit, they knew they had made a mistake, and two years later they repealed it.

Fry: In the meantime you had this problem of having the state government opposing the county governments.

Kuchel: And we didn't have a staff of thousands of people to send out into the fields to determine the right and wrong of old-age payments. So we spot checked. The questions of liability were enormous. I earned my pay back in those days.

The Inheritance Tax Appraisers and Kuchel's Campaigns

Fry: You were on a number of boards and commissions by virtue of the fact that you were controller. I have all these listed here.* The inheritance tax appraisers in the Inheritance & Gift Tax Division is always a pretty good political base for somebody who's controller. I wonder if you were able to run your campaigns with your inheritance tax appraisers? Or did you just naturally have a good system all set up?

Kuchel: Obviously, since those people were not under civil service, they constituted a very important segment of whatever campaign organization an incumbent controller would have. I think I can say I didn't police them to see how much work they were doing for me. But, there's no question about it--most of them were doing everything they could to help me in my re-election campaign.

But I tried to conduct that end of my office professionally, too. I think I probably was the first controller who fired appraisers. I got into trouble doing that too.

Fry: Are you talking about when you first came into office?

Kuchel: Oh no, no.

Fry: You don't mean you fired your predecessor's appointees?

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*See footnote, p. 11.

Kuchel: No, no. I kept them. But subsequently I terminated the relationship with some of them. I remember one in particular whom I had appointed. He looked good on paper, with a great education, real estate experience, and all the rest. But he made enemies. He would let the work pile up and wouldn't do it. I sent word down to him several times. "You can't do that; you've got to perform a service for the buyer." But he wouldn't change. So I fired him. He came running up to the legislature and got hold of a couple of members of the state legislature to try to get them to come after me. But he didn't get very far.

But there's no question about it; the controller, to that extent, had a practically built-in campaign. The incumbent controller had those people, assuming that they were respected in their own communities, to help. They sure helped me.

Fry: Were the communities organized? Did you have a little committee of advisers in each county to help you choose appraisers when you had to pick them out?

Kuchel: Oh, I always went to the superior court. That would be the first thing.

Fry: You mean you'd ask the judges--?

Kuchel: Oh, yes, because you see, it's a dual responsibility. The controller appoints the panel, and then when X dies and his estate comes before the superior court, the superior court says, "I will appoint inheritance tax appraiser A or B or C." So, it's a dual responsibility. Obviously any man who's a decent judge wants to be sure that his appointees are good too. So I stayed pretty close to the court's advice when I had occasion to make appointments.

Oh, good Lord, I remember one Saturday or Sunday, the phone rang at four o'clock in the afternoon. Someone said, "Mr. Kuchel, I'd like to have you consider me for appointment as controller in X county."

I said, "Well, there is no vacancy there."

"Well, I know, but your inheritance tax appraiser Y is in the hospital ready to die, and I just wanted to get my name to you early." Well, what a terrible thing. It was ghoulish. Of course I never gave him a second thought.

I think my appointees, however, were, generally speaking, able in that field and respected in the community. And they were always appointed, not with a clearance, but with the understanding that the probate court had no objection to them.

Fry: Did Earl Warren help you select any?

Kuchel: No. That was one good thing abut the governor: he would appoint someone to a responsibility and it would be his.

Fry: Did this appraiser system help insulate you from people who threatened to damage you politically if you didn't vote their way, for instance on the Board of Equalization or something like that?

Kuchel: Well, I'm not sure you should equate those two like that.

Fry: I wondered if it gave you a sense of political stability or tenure that maybe other persons in the state didn't have.

Kuchel: Yes, I think so.

Fry: Or am I overemphasizing?

Kuchel: No, you're not overemphasizing. The people in the appraiser's office and their connections with the county courthouses, the county clerks, the county assessors, the county treasurers, all had relations with my office, and I maintained good public relations with them. Aside from the press, that was about my campaign.

I had more of the press for me than most people. I came from a newspaper family. So I would go into offices and they would know me because of my father.

Fry: That's what Ewing Hass told me, I remember now. He said that you were able to call on the local editors.

Kuchel: This was true. So from that standpoint, it was a big plus.

Fry: So you had relatively easy campaigns, would you say? Easy campaigns in '46 and '50?

Kuchel: Well, truthfully, I think they were fairly easy. The first time, I remember a fellow ran against me named Riley, the same name as the deceased controller. And he was backed by some bad people.

Fry: Was that a Samish man? I'm just grabbing it out of the air because this was a technique that Samish had used in another campaign: running [Fred N.] Howser for attorney general because Houser* was lieutenant governor and had provided name recognition.

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*Frederick F. Houser, elected lieutenant governor in 1942.

Kuchel: The man who, I can use the phrase "dug up this fellow" because the first name was the same too, was a bad person, and I've forgotten his name. But I remember I went to The San Francisco Examiner and one of their men arranged to send reporters out who, at a synchronized moment, would be knocking at the door of Riley the candidate, the man who was putting up the money for him, and a third one who was a writer of tracts of some kind down in San Diego some place. And then they put the story together and--

Fry: Oh, they all asked the same questions?

Kuchel: Well, what they wanted to prove was that he was a phony and that he really had no background and that these other people had got him in the race because of the name. And they did a really superb job of getting the story and publishing it. And then we had it reprinted. Grove Fink was his name.

Fry: That's whose name?

Kuchel: Fink was a lawyer for The San Francisco Examiner and he's the one who arranged this exposé.

[Interruption]

Kuchel: One of the great friends of Earl Warren was one of the great editors of a Hearst chain, Cobbie Coblentz. I think his son is a member of the Board of Regents.

Fry: But the father is not alive, is he?

Kuchel: Oh no. He was an old man when I--

Fry: And that great political editor of the L.A. Times is no longer with us either.

Kuchel: Kyle Palmer. Great witty fellow. The bygone era.

[end of tape 2, side 1]

More on Kuchel's Appointment to the Controller's Office

[Interview 3: November 13, 1972]
[begin tape 3, side 1]

Fry: I think first I would like to go into your appointment as controller a little more. Here is a clipping that I think came from one of "Pop" [Merrell F.] Small's articles, in which he says that Ewing Hass says that you were appointed because Warren "admired your guts."

Fry: [Reading from the clipping] "Hass remembers that during the special legislative session on post-war problems in January, 1946, Warren sought Kuchel's support for a bill he wanted passed. Kuchel could not agree with the governor and argued his own views forcefully but calmly. The incident increased their respect for each other. It was timely too. The state controller, Harry B. Riley, died a few days later and Warren appointed Kuchel to succeed him."*

Now where were you in '46? You weren't in the legislature, were you?

Kuchel: I was in the navy, but I was elected to the legislature, then did not serve in Sacramento. When my first term expired, I was still on active duty. The navy adopted a rule that a naval officer on active duty could not campaign for public office, but if his friends nominated him for any position, he would not be required to repudiate it. And that is what happened to me.

Fry: So you were elected to the state senate in 1940 and that term would have run to 1944?

Kuchel: That's right.

Fry: But you were in the navy until 1945?

Kuchel: That's right.

Fry: So you were reelected in absentia in 1944?

Kuchel: Yes, I think without opposition. I had forgotten that.

Fry: So then when you came back from the navy, you went straight into the senate?

Kuchel: Well, I don't know whether I did or not, but at least I was a member. When the next regular session began, which I guess was 1946, I was there.

Fry: At any rate, do you remember being in the senate when you were appointed controller?

Kuchel: Yes, because I got up and resigned. Yes, that's right. I had forgotten all these things.

Fry: Well, I thought this was intriguing because of your relationship to Warren at that time. Could you give us any background on your relationship to Warren? Do you remember telling the governor that you really couldn't in all conscience, support the bill he wanted you to support?

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*Small, M.F., "Kuchel's Independence of Mind. . . ", Sacramento Bee, Sunday, July 12, 1970, p. B10.

Kuchel: Only in a vague way. I really don't remember what, and I really don't remember what changes he ought to have had in his bill.

Fry: Before you went into the navy, had you had much contact with Earl Warren?

Kuchel: Well, no. No intimate relationship. But I knew him and from time to time would see him and talk to him. I think I have known him since the 1930s.

Fry: When you were Republican State Committee chairman?

Kuchel: Yes. Well, he was chairman, too, you know, earlier. Yes, I knew him then, when I was in the legislature. Perhaps he was district attorney then. And then, of course, he became attorney general in 1938. So, I knew him almost from the very first that I was in the public service myself. I believe I came to know Earl Warren from my first years in the state assembly.

Fry: You undoubtedly did. Well, we will go into the part on the late '30s and early '40s elections in a little bit.

Paul Leake, Liquor Control, and the Board of Equalization

Fry: On the Alcoholic Beverage Control Board: this was under the Board of Equalization, and there were repeated efforts to take it out from under the control of the Board of Equalization. There is more information on that here. [Handing Kuchel a page of notes.]* Do you remember any of these efforts? There were all kinds of legislative studies done, with an eye to reorganizing the ABC Board.

Kuchel: This is what I remember. They were going to do some other things. For example, this Department of Revenue would have taken away some of the controller's functions.

Fry: And put them under the administration, right? Do you know why Paul Leake was appointed?

Kuchel: Because Earl Warren asked me for a recommendation, and I recommended Paul, as a well respected resident of that Board district.

Fry: Well, that is what I had surmised.

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*See following page.

Research Notes on the Divorce of Alcoholic Beverage Control From the State Board of Equalization

1939, 1940, 1945, 1949, and 1951 were years in which the legislature studied whether to divorce alcoholic beverage control from the State Board of Equalization and whether to place its tax functions in a general department of revenue.

In the 1939 legislature, senators Robert Kenny and Jesse Carter introduced a constitutional amendment to remove liquor control from the Board. It died in committee, although until 1939 the Board of Equalization had gone on record frequently as favoring divorce. Governor Olson also tried to effect a separation in 1939 and again in 1940.

In 1945 the assembly committee on public morals considered the issue and said it was unwise. This was a typical response to the question of divorce around this time.

In November 1948, Equalization board member Bill Bonelli introduced a resolution to the board itself for removal of the liquor control functions, to no avail. The next year, three assembly proposals all died in committee, and a similar bill was killed in committee in 1951. At this point, the Assembly Committee on Governmental Reorganization was created with James W. Silliman as its chairman. On January 7, 1953, in a move led by Caspar Weinberger, it recommended divorce from the Board of Equalization. Paul Leake, also determined to reform liquor control abuses, had been sworn in as Governor Warren's new appointee to the Board of Equalization a month before--on December 16, 1952.

But it was not until 1955 that reform was achieved. In 1954, voters passed a proposition which approved an amendment to the state constitution which removed the duty of regulating the manufacture, importation, and sale of alcoholic beverages from the Board of Equalization, and placed it in a new Department of Alcoholic Beverage Control. Responsibility for taxation, however, remained with the Board of Equalization. This amendment became effective January 1, 1955.

Kuchel: But you can't say that. You have to get that from Earl Warren.

Fry: Why not? Well, okay, I will.*

Kuchel: Sure, he didn't know who to appoint. You see, Paul Leake was a Democrat, so it would almost have been heresy for Warren to--that is the precise truth.

Fry: Why would it have been heresy?

Kuchel: A Republican governor wouldn't appoint a Democrat to an elective partisan office.

Fry: Warren had appointed a number of Democrats to other positions.

Kuchel: But never, never to an elective public office.

Fry: But you were also an elected Republican office holder. Why did you suggest Leake?

Kuchel: Because in that equalization district which represented the north rural area, he was a fellow that I had come to know and admire. He was a friend of mine. His son had been a reporter; he had covered the state senate while I was there and I knew him that way. So when Warren said, "Do you have any suggestions?", I said, "Yes, I will give you one." And I did.

I don't think Paul Leake knows this. I never told him.

Fry: A while ago, you said you didn't want to record this; I do have the tape on and we can note this in your transcript so you can take it out then. I thought maybe you didn't understand that we are recording now.

Kuchel: No, I didn't know that. I wouldn't like to be the first to disclose that, simply because I would like to have the Chief [Earl Warren] do it.

Fry: Well, none of it is going to be published until the whole series is done and everybody has seen his own transcript.

Kuchel: All right.

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*Because this interview is being published after Warren's death, Senator Kuchel has given permission to include this information.

Fry: Was Warren concerned at that time to get someone who could reorganize the Board of Equalization and do something with the Liquor Control Board? It must have been a source of embarrassment to him.

Kuchel: I am not so sure that he was in favor of a Department of Revenue.

Fry: Earl Warren has told us that he did not want anything concerning the Liquor Control Board put under his office's responsibility.

Kuchel: I guess that was his position. He just didn't want anything to do with it.

Fry: In other words, directly responsible to him?

Kuchel: Yes, but I frankly have forgotten whether or not he was in favor of a Department of Revenue as part of the reorganization which would have transferred the liquor functions to somebody else. As a matter of fact, when the liquor functions were transferred away from the Board of Equalization, weren't they given to the executive branch? Doesn't the governor have something to do with the liquor administration?

Fry: Yes, but you see that was done right at the end of Warren's term as governor.

Kuchel: I don't remember that.

Fry: Did this problem come up frequently in your administration--about the clipping of the power of the controller as an independent watchdog?

Kuchel: Yes, it did.

Fry: Was this episode part of [Legislative Analyst] Alan Post's decision that we didn't need a controller, or a treasurer either?

Kuchel: Well, I think that this was long before Alan Post. When I was appointed controller, I guess Rolland Vandegrift was the legislative auditor [analyst]. But the idea of grouping together under the governor all functions pertaining to taxation and then transferring the disbursement responsibilities in some fashion to the governor's administrative offices has been recommended almost from time immemorial. Proposals would be brought up and studied and people would say that is the classic way--this is the way to do it.

It seemed to me, after I had been appointed state controller, that it was a good idea to keep the disbursement of funds and the determination of the validity of disbursement separate from the state administration. I still believe that. But this was part of the intermittent and repetitive recommendations for governmental reorganization of the state.

Kuchel: There used to be bills introduced to take away some of the controller's responsibility. I remember those in a vague way and we could refresh my memory on that.

Fry: Do you remember some interesting hearings on these bills? We might want to look at their transcripts--although it's hard to find transcripts of old hearings now.

Kuchel: Yes, I do. If we determine that this is important, I think The Sacramento Bee would be a great source of information. They covered that sort of thing very well.

Relation of the Controller's Office to the Legislative Analyst

Fry: I ran across a number of articles that referred to the powers of the Board of Equalization and the Liquor Control Board and the role of the Treasurer in the later period when Post was making his attack.

Kuchel: When was Post appointed?

Fry: I don't know the date. It was late in this period.*

Kuchel: I don't remember him as being the legislative auditor, or whatever they called him, while I was state controller. And if I am wrong in that, surely he was not there too much of the time.

Fry: Well, he might not have been in, because you left in '52, and Post came in at the end of Warren's administration.

Kuchel: That's right. I think Rolland Vandegrift became ill. Vandegrift had some pretty good people on his staff. Fact of the matter is I believe I hired one or two of the legislative auditor's staff to come and work for me.

Fry: I have heard that he was a difficult man to get along with.

Kuchel: Oh, I don't know that he had the world's greatest personality, but he had some marked ability, there is no question about that. My judgement is that he rather rejoiced in being somewhat abrasive in his relationship with people in the governor's administration. He would point the finger of scorn at a given state official on some item in the budget. I think he maybe served a useful purpose doing that.

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*1953.

Fry: Could you explain your relationship to Vandegrift?

Kuchel: How do you mean?

Fry: Well, I mean, if a controller held a watchdog function and the legislative auditor makes the judgements whether the state should make certain appropriations and how much, it seems that you two might have a lot of--

Kuchel: He was not operating in derogation of the controller's functions. The controller never had the responsibility of sitting in judgment over the governor's budget and then advising the legislature as to his conclusions. Actually, the constitutional basis of the office of controller in our state is that he is the custodian of public funds, he is the determiner of validity.

Fry: After the appropriation was made and it was time to pay the money?

Kuchel: Yes. He performed two functions. He had the authority to make a pre-audit of validity if he felt he should do that and if he felt public interest was served by it. He also had the authority to make a post-audit, an audit subsequent to the disbursement. And if he found, for example, in a post-audit that the disbursement which he had made, or which had been made by departments with monies that the controller had set aside for them, was in fact questionable or invalid, then he would take appropriate steps to have those monies returned to the treasury.

Now those are functions that revolve around the disbursement of public monies. They have nothing to do with advising the legislative branch as to the wisdom of casting an appropriate statute.

Fry: But you and Vandegrift did have to work together some. Did Vandegrift want more of your functions?

Kuchel: I think Vandegrift was always in favor of the so-called Department of Revenue. I draw on a pretty cloudy memory but it seems to me the rumors were he harbored the hope that he might head up a Department of Revenue if one were to be created.

Fry: That would be a lot of power in one department.

Kuchel: It would be, and if it were under the governor, it would be too much. That old theory of checks and balances is still good, you know.

Fry: Well, let's move on into the Alcoholic Control Board. Here are some things that I copied down from issues of The Sacramento Bee. If you want to just take a minute and read these.*

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*See following page.

Notes from The Sacramento Bee, September 15, 1945:

George R. Reilly of San Francisco, the new Equalization Board chairman, and William G. Bonelli of Los Angeles, the board chairman who just went out--tell of their fighting. "Reilly recently declared the black spot of liquor law enforcement in California is none other than Bonelli's home county." Bonelli says Reilly is not qualified to talk about this. The writer says the whole matter of liquor law enforcement never should have been given to the Board of Equalization in the first place. It is something entirely alien to that body's fundamental function, which is tax equalization.

From the December 15, 1948 Bee:

William G. Bonelli, chairman of the state Board of Equalization, said he would wage an all out campaign to separate liquor control from the Board of Equalization. In a November meeting of the board, Bonelli had introduced a resolution calling for the creation of an Alcoholic Beverage Control Commission--a constitutional amendment. He sent out more than three hundred copies of the resolution to legislators, city and county officials, businessmen, etc., asking their opinion. He reported it was overwhelmingly favorable.

Fry: You can see that anyone going by the written record is going to be confused about Bonelli's position and Reilly's position, because they both come out sounding like angels there.

As I understand this, you were caught in a bind on this question of divorcing the Alcoholic Control Board from the Board of Equalization. You just mentioned to me that in some efforts to divorce, there were simultaneous efforts to put your controller functions under the administration.

Kuchel: Well, I think that's true with respect to the Department of Revenue recommendations, but now whether or not these two articles that you show me here refer only to recommendations to transfer the Alcoholic Beverage function, I don't remember.

Fry: Well, these apparently never got seriously considered. The assembly Committee on Public Morals usually said it would be unwise and it was usually killed in committee.

Kuchel: You know, that's interesting, because if that's the same--what committee was that?

Fry: The Assembly Committee on Public Morals.

Kuchel: I doubt that would have been the same committee to have sat in judgment over the Department of Revenue recommendations.

Fry: No, it wouldn't have been.

Kuchel: Public Morals may have jurisdiction over alcoholic beverages but not over taxes.

Fry: Well, I think [liquor lobbyist Arthur] Samish has said that the Committee on Public Morals was sort of under his thumb. [Laughter]

Kuchel's Appointment as Chairman of the Republican State Central Committee

Kuchel: Do you have a quote from Samish on these proposals?

Fry: No, not on that. I have a quote where Samish claims the credit for putting you in as head of the Republican State Central Committee, however.

Kuchel: Well, that may be claiming a little bit more than he should, but you know, no question, the truth is that he had one of his men--he determined that he was going to go out--

Fry: That's what Samish says. It's here on page 7.*

Kuchel: I have a very dim, but nevertheless I think accurate recollection of Governor Merriam and the so-called old-guard candidate for chairman. I was never a candidate for chairman. So help me, I never wanted it.

Fry: Oh, that part is true, then, when they said, "How about that kid, Kuchel" and--

Kuchel: Oh, sure.

Fry: And it descended on you from outer space?

Kuchel: Oh, yes. I even remember now that Kyle Palmer [Los Angeles Times political editor] called me and asked me to get out of the race, in a nice way. And I said, "I am not in the race. There is nothing for me to get out of." I remember very well because it was common gossip around the capital that Samish and his people were saying, "Let's get someone other than a Merriam man." I am afraid, however, it was more of not wanting Merriam's man to win, than having somebody else in.

Fry: This sounds like it just happened overnight. I wondered if it happened that quickly.

Kuchel: Yes, I think probably so. But it was beautiful. Jimmy Simms, that is the fellow! Well, well, well. He was an appraiser on the Board of Equalization. He was sent out to see what he could do to get some local kids to sit up in the balcony and roar every time my name was mentioned. [Laughter] Oh, that was great!

Fry: Were you there?

Kuchel: No, I wasn't. This would have been in the summertime. The legislature was not in session. I came back there for the State Central Committee meeting but when (now I am speculating, but I think this is probably right) I found that I was going to be nominated, I didn't hang around the capital.

Fry: You went in as a compromise selection between Senator Seawell and Senator Bill Rich?

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* Samish, Arthur and Bob Thomas, The Secret Boss of California, Crown Publishers, New York, 1971.

Kuchel: Now I don't remember that.

Fry: And Seawell was the standpatter--?

Kuchel: Oh, no. Oh, he was a Progressive Republican. Who said that?

Fry: Bob Kenny, I believe.

Kuchel: No, no. And Bill Rich was a wonderful old guy. He was a very conservative Republican.

Fry: So you don't know anything about that controversy?

Kuchel: No, I don't. You mean those two men were up for nomination?

Fry: That's right. Apparently they were under consideration.

Kuchel: By whom?

Fry: Maybe they both wanted it.

Kuchel: I have just forgotten that.

Fry: Well, it may be that that story isn't very authentic.

Well, back to Samish.

Kuchel: I am going to take a five-minute break. I will stay with you for another hour, but then I have to leave.

[break]

Fry: One of the questions that I particularly have is about problems that were going on in the Liquor Control Board. It seems logical that Samish would have been involved in that, although we can't really put our fingers on this thing. I wondered if this was a part of Samish's domain and if he operated politically there?

Kuchel: Well, the liquor industry in California had a jillion people representing them. It is probably true that Artie Samish was the industry's number one man so far as the legislature was concerned. But that wouldn't mean that he was divorced from any of the liquor industry's problems before the Board of Equalization.

I remember one man who actually came down there and appeared for the liquor people--I cannot remember his name. Matter of fact, there were two of them.

Fry: Appeared where?

Kuchel: From time to time before the Board of Equalization; they represented the liquor industry, too. But you've got to assume that the right hand knew what the left hand was doing.

Fry: Well, in the scandal involving Bonelli and the selling of liquor licenses, do you think this would have anything to do with Samish, or was Samish only involved in getting the legislature to protect the liquor industry?

Kuchel: What was Artie Samish convicted of?

Fry: He was finally sent to prison because of not paying income tax, I think.

Kuchel: Did it have anything to do with liquor licenses? I don't think so.

Fry: No, it didn't.

More on George McLain and the Old-Age Pensioners

Fry: I want to ask you one more question to supplement what you have already said before about the administration of the new welfare payments. The responsibility for disbursement of these was taken from the counties and was put in the hands of the state in 1948 with Myrtle Williams heading up the State Department of Welfare.

Kuchel: People were rather surprised that that old-age initiative was approved at the ballot box. I am sure that I was surprised, because it was a very bad proposal. As one of its provisions it actually named the person who was going to head the agency. That was this woman, Myrtle Williams.

Fry: That's right. Apparently you were responsible for determining the validity of the warrant for issue.* I wondered if you could explain how you did this. It must have meant adding investigators to your staff. The attorney general's office was supposed to help, but that was Howser--

Kuchel: Oh, we had a terrible time. I have forgotten how the provisions of the initiative worked but there was some county function and some state function. I do remember very well calling a meeting of

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*See pp 18-19.

Kuchel: representatives of a number of counties, who in turn represented all the counties in the state, to negotiate with them an agreement under which the controller would accept certain responsibilities that were not enumerated or spelled out in the new initiative, and the counties would assume other responsibilities which likewise were not mentioned in the new initiative. I remember we had some long sessions in trying to determine who would bear the liability and who would bear the brunt of enforcement. It was a miserable thing.

As you know, subsequently the people repealed the initiative. But in that interim, the old-age aid leader--McLain--told this woman what to do, how to act, how to conduct business. You have to give him credit for spearheading a successful drive, but he was a fake. It was really a pretty shabby thing, and very loosely run.

One thing I do remember is that in the audit that the state controller undertook in these payments of funds, we had found in one instance that a monthly check was going to a bank on the theory that the bank was entitled to old-age aid! It was very, very bad.

Fry: It is my understanding that the McLain initiative contained no provision for financing the program. And the finance department calculated that the state treasury's general surplus simply wouldn't cover it. But later it did seem that there was enough. That was not one of the problems, was it?

Kuchel: Money?

Fry: The bill was very generous of course. It removed all requirements for responsible relatives, care for needy oldsters, and it eliminated restrictions on the size of the old-age pension by providing a special grant of $75.00 a month plus cost-of-living increases. The administration of this had to be done by the state. So I wondered if your office had been aware of the budgetary problems, or was that strictly a concern of the Department of Welfare?

Kuchel: The controller would have been not only aware, but involved in the money problems to the extent that, in accordance with the provisions of this initiative, he would have to be responsible for the state payments.

Now looking at this today, the provisions of that program really aren't alarming at all. I think the basic brutal fact was that a new government agency was created with a lot of incompetent political hacks brought in to help do the job, and they did it in such a messy way that they did a terrible administrative job. But again I have just forgotten much of this.

Fry: You've mentioned the fur coat that McLain gave to Williams. This is misuse of funds from a non-profit organization, right?

Kuchel: Yes, it was. Let me tell you about that. I was chairman of the Franchise Tax Board which had jurisdiction over state income tax laws. An audit of the allegedly non-profit institution that McLain headed disclosed the payment of money by him for a fur coat for Myrtle Williams. It was disallowed by the state as it should have been. Well, he started screaming, and he came up to try to have the fur coat part of the audit changed. Oh no, [laughter] I am making too much of a lurid story out of it. We revoked this group's charitable exemption.

Fry: And that's what he came up to try to change?

Kuchel: Sure. We revoked it in part, I think it is fair to say, because of this fur coat thing. And so he sent a lawyer up to see me. "Why not give it [the exemption] back to them?"

I said, "No, we are not going to do that." I think my failing memory is probably a good thing because really McLain was pretty brutal. He kicked me around a lot [laughter] in his paper and on his daily radio program.

Fry: He attacked you?

Kuchel: Oh, terribly, because I wouldn't consent to give him back his exemption.

Fry: I guess he was feeling his oats about that time having gotten Myrtle in. Also, in some newspaper accounts I saw little notes about him trying to recall Earl Warren. I wonder if he tried to recall you too?

Kuchel: No. But oh, he really was indignant. I remember that very well. He started losing out after that. But he was a fake; he was just a mountebank.

Fry: Actually this must have been an effective way to fight him because it did take away some of his funds.

Kuchel: It was, no question at all. We started taxing him.

Fry: Before this happened, The Sacramento Bee had carried an article on the very posh office that he had in Los Angeles.

Kuchel: I was never in it, so I don't know. [Laughter]

Fry: Oh, it had a fantastic layout.

Creation of the Franchise Tax Board

Fry: I want to skip to another important question here. It is a knotty problem that you may have had to deal with: the state deposits made by the treasurer during this time in banks, which did not accrue interest to the state.

Kuchel: That was not a responsibility of the controller. It was a function which the state treasurer performed and which was quite outside of my jurisdiction. But it was a miserable way that funds were handled. It may be that within limits you can't avoid having some freedom. But that gave rise to all kinds of problems obviously.

Fry: All right. Let's go back to your mention of the the Franchise Tax Commissioner. There was an investigation and a resulting proposal to abolish the office of Franchise Tax Commissioner and set up a Franchise Tax Board on January 1, 1950. As I understand it, this commission was composed of you as chairman, Director of Finance James Dean, and Board of Equalization's chairman, George Reilly. It determined the amount of tax on banks, financial corporations, personal income tax, corporation income tax, and so forth.

Kuchel: Well you mustn't say determine, because what it did, it enforced. That board--maybe it was called commission.

Fry: Well, the office of commissioner was replaced by the board in 1950.

Kuchel: In 1950, but I don't think they changed its functions.

Fry: No. Well, in the testimony of the hearings that were held in 1948 the inquiries seemed to center on the franchise tax employees' moonlighting--doing income tax return work in return for fees. Some of the people they did this work for also had their returns up before this same employee in the daytime when he was on the board.

Charles J. McColgan, who had been the commissioner since 1931, was the man under fire here, as I understand it. As early as '39, Attorney General Earl Warren said that the commissioner does have full civil service status and the State Board of Personnel rules were applicable to his position. So this is kind of a knotty problem, and I thought that probably you had had to deal with that.

Kuchel: Yes, I did. And again I have got to hesitate, just because I don't recall--

Fry: If you would take a second to just read all this.*

Kuchel: Yes, Charles McColgan, during his last years as top commissioner, did not function. Whether he was sick, whether he was--whatever.

[end tape 3, side 1; begin tape 3, side 2]

Kuchel: I do not remember how the office of the Franchise Tax Commissioner was vacated, but that probably was the reason for the legislation you are talking about. The board appointed a very able fellow named Jack [John J.] Campbell, who proceeded to make the franchise tax functions in California first rate and high class.

I recommended to Governor Warren that his budget include a special group of highly competent, legally trained accountants and lawyers to inquire into possible criminal violations of the state tax laws. The governor did include those in his budget. My recollection is there was a fight in the legislature over that item, but it prevailed. I appointed a fellow--I have forgotten his name--a very able man, who was in the Alameda County District Attorney's office. Great, big able fellow. Then he recruited a group of investigators, and we proceeded to enforce the laws. This would have been the Franchise Tax Board.

Fry: If you have nothing more to say about the Franchise Tax Board, I would like to move on to your part in the Water Project Authority. I wondered if you were there when the issue regarding federal financing arose--whether to put it under the Bureau of Reclamation or under the Corps of Engineers? You and [Attorney General] Howser both were on this board.

Kuchel: Well, during those years when I was state controller and was ex officio on the Water Project Authority, the concept of a state water plan was simply in its very initial stages. I doubt very much if there was any legislation pending in the congress, and I am quite sure that no legislation was passed in the congress dealing with that subject. As a matter of fact, I don't think anything was done in Washington of any terrific moment in solving California's water problems until Old Man Kuchel came back here [to Washington, D.C.].

Fry: That would be one of the most important sections to go into. We have a lot of things on water resources in our other researches in our office, so we ought to bring all of this to bear on that.

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*See next page.

Notes on the Formation of the Franchise Tax Board

Legislative hearings were held in August and September of 1948 on franchise tax employees moonlighting--working as income tax return specialists for fees. In testimony, it developed that alledgedly the same man may prepare someone's return then be assigned to review it.

They were investigating Mr. Charles J. McColgan, who had been Franchise Tax Commissioner since 1931. Questions focused on the power of the board to hire and fire. The office was appointive, by the director of the Department of Finance, the controller, and the chairman of the Board of Equalization. One of the exhibits was an opinion of Attorney General Earl Warren from June 19, 1939, saying that the commissioner does have full civil service status, with state personnel board rules applicable to his position.

McColgan had been first appointed by Vandegrift, Mr. Riley (controller), and Corbitt (chairman of the Board of Equalization). In 1934, the office had been put under the civil service, but there was some question whether the trio could still hire and fire. At least they were allowed to "ascertain whether he was efficiently performing his duties." "The question immediately arises . . . why the [three have] taken no action to correct the situation."

From January 10, 1951, The Sacramento Bee

Herb Phillips tells of Warren's proposal to hit underworld racketeers in the pocketbook through the state income tax by eliminating all tax deductions or expenses of businesses which can be proved to fall under criminal categories. Warren is requesting funds for a new special staff of state tax investigators which ties in with Brown's plans for a state justice department reorganization in the interests of war on organized crime. Also Warren announced he will appoint a new state crime commission this year (something Brown felt was unnecessary.)

The state franchise tax board would act as an administrative agency for the state income tax, and the tax detective would function under the board. The board at this time was Controller Kuchel, state finance director Jim S. Dean, and James H. Quinn, incoming chairman of the Board of Equalization. A budget of $40,000 is being asked to start the income tax investigative division off with four special agents and a criminal lawyer.

Kuchel: And this is terribly important from the standpoint of the public interest because there were people whose interest in the developing state water plan was entirely a selfish one.

[telephone interruption]

More on Property Tax Reform

Fry: In that 1950 Blue Book, something was mentioned about pressure to de-emphasize the property tax. This whole area of property taxes is still a terribly knotty one, and more and more pressure is coming to bear on replacing it with other forms of taxation. You had mentioned in our previous session something about some bitter fights on the utility property versus the common property tax.

Kuchel: My recollection is that I played a role on the Board of Equalization in seeking to have some guidelines adopted by the board over all functions of the board connected with assessments. As you know, at least it was then a fact, that the board had an appellate authority over some of the functions of the county assessor. I now do not recall, but it would be relevant to what we are talking about to find out whether it had the appellate functions over common property. But it did sit in judgment over the utility property, as that property was valued by staff people in the field.

Kuchel: Anyway, part of the problem with property tax involved the different levels of value that county assessors would give to property in their individual counties. I hesitate to even guess as to the level of differences, but it could be that the assessor in county A would give assessed valuation of property within his county on the basis of maybe 20 per cent of actual value, somebody else 30 per cent maybe, some 50 per cent. Well that obviously was wrong.

Fry: I talked to someone in the assessor's office, and she said that apparently the Board of Equalization could raise a county's vote to conform to the rate of valuation that the Board of Equalization had established for public utilities. She said that the Board of Equalization independently assessed public utilities on the basis of a certain rate of valuation and then the counties had to conform to this--

Kuchel: On common property, too. But the board never exercised that jurisdiction, did it? I don't remember.

Fry: I don't know. She remembered this as their main problem in their relationship to the State Board of Equalization.

Kuchel: Oh, it was a political hot potato.

Fry: Now they do have a requirement that they conform, but I don't know what their powers to enforce this are.

This pressure to de-emphasize the property tax didn't necessarily mean, like it does today, to substitute a straight income tax or a corporation tax for the property tax, but it was this business of--

Kuchel: A more equitable application.

Fry: And more uniform assessment valuations between counties.

Kuchel: Yes, that's right.

Fry: On these guidelines, then, that were developed, that was part of the attempt to answer that?

Kuchel: Yes, it was. I have a dim recollection of some meetings that were suggested in which the state officials and the county officials would gather together and have a frank discussion of this. I was earnestly trying to have them come together. But there were people who didn't want any meetings. They tried to put the lid on it.

Fry: Who would that have been?

Kuchel: I suppose they were people who were happy with the status quo.

Fry: Did you have pressure from citizens' tax associations?

Kuchel: Oh, I don't think so. The California Taxpayer's Association comes to mind when you ask me that question. Is it still there?

Fry: Yes. It is still quite in evidence.

The Water Project Authority

Fry: Now, we were talking about this Water Project Authority, and I did have one more question. During your time the Authority had its Division of Water Resources, which was a part of the Department of Public Works, make an annual survey of ground water conditions. This is a quotation about the scope of its work:

> "survey of ground water conditions within the project area, gathering and maintaining recent financial and economic

Fry: information on the project, and reviewing engineering and economic specifications of proposed units for construction."*

That sounded like kind of a capsule version of what was under consideration in your administration. Does this mean it had already been decided to let the Bureau of Reclamations, rather than the Corps of Engineers, take over?

Kuchel: I honestly don't remember that in my day there was any big stir for the Corps of Engineers to take over.

Fry: Was that because the Bureau of Reclamations' water would be used only for farms of 160-acres maximum--the "160-acre limitation" clause?

Kuchel: Sure. You are absolutely right. So I was just wrong in my recollection, because at least in one dam down in the Central Valley someplace, that still was the basis for the dispute.

Fry: What was your attitude?

Kuchel: Oh, well, philosophically I thought then and still think that if the government had any revenue which enriches a given area, those riches ought to be distributed with some even-handedness. That doesn't mean that I believe that 160 acres is the correct figure, but it does mean that I don't think the federal government should spend a great amount of money and then find only a handful of people have benefitted from it.

If we decide subsequently that this is an important field, there are some new developments--law suits. I don't know if they are proceeding to the circuit court or not, but there have been some law suits questioning when the acreage limitation applies and when it doesn't. This is particularly in connection with the All-American Canal down in Southern California.

Fry: A person who could give us a good lead on that would be Paul Taylor at the University because he is the man who has followed vigilantly the 160-acre limitation issue.

Kuchel: Paul Taylor is too much of an advocate.

Fry: He is very <u>much</u> an advocate. That's why I think he would know about which law suits are pending.

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*<u>California Blue Book 1950</u>, p. 641.

Kuchel: Oh, but I've got a better one. One of my partners here is Ed Weinberg, who was the Solicitor of the Interior under Stewart Udall. He will know the answer to that one.

Fry: That's something we want to update.

Well, as controller and as a member of this Water Project Authority, do you remember how you were connected to this question of 160-acre limitations?

Kuchel: No, I don't.

Fry: I wonder if you ever had to take a stand on it?

Kuchel: No, what I am telling you now is because of my Senate experience. I do not recall, as a member of the Water Project Authority, any issue over acreage limitations. Now it must have been an issue there, but it surely isn't something that stands out in my mind about that time.

III KUCHEL'S PERSPECTIVE ON THE 1952 REPUBLICAN NATIONAL CONVENTION

Warren Takes a Stand on Principle

Fry: The next most important thing for us to talk about would be the 1952 Republican convention when Warren was a serious presidential candidate. We want to get the full story. You were on the California delegation?

Kuchel: I was an alternate: Warren asked me if I would go and I said, "Sure."

Fry: Well, let's start at the beginning of it. Did you have anything to do with helping put other people on the delegation?

Kuchel: I don't think so.

Fry: You were not running for office yourself at that time. You were appointed to the U.S. Senate later on that year, when Richard Nixon became vice-president.

Kuchel: Yes. That's right, after the election. Vern Scoggins,* do you know him?

Fry: Oh, yes.

Kuchel: He would be helpful, too.

Fry: Our office has recorded Vern Scoggins, and he has been helpful, but I thought maybe you could tell us most about what went on at the convention.

---

*Press secretary and campaign coordinator for Earl Warren during Warren's governorship.

Fry: It had two parts. The pivotal point was when it became clear that there was not going to be an opportunity for a third candidate like Warren to come and settle a deadlock between Eisenhower and Taft. That was when the contested delegations for Eisenhower in states like Texas and Georgia were seated. The other big thing was Nixon's role on the train--

Kuchel: Murray Chotiner. There can be no question that Chotiner was trying to weaken the support among the delegates pledged to Warren. I don't think there can be any doubt about that. But I'm talking from hearsay. I flew back. I did not go back on that train.

But this whole thing going through the convention really is a rather startling chapter in American politics. I doubt that the whole story of Earl Warren's stand for principle has been put down on paper. It is for him to tell you that, but he had some choices to make, and he made them on the basis of principle.

Fry: Which choices are you talking about?

Kuchel: Well, about his own role.

Fry: After he got there?

Kuchel: I guess I mean after he got there. I don't know. Was he on that train?

Fry: Yes. Nixon joined it in Denver, and rode on into Chicago.

Frankly, we do have stories about efforts to undermine the delegations' pledge to Warren.

Kuchel: Getting pressure from somebody on the train?

Fry: Yes. So I am not sure what the total feeling was at that time.

Kuchel: Bill Knowland knows a lot about what went on, and my judgment is that Bill Knowland stood up in support of Earl Warren right down the line. I think that's true. Have you ever tried to sit down and talk to him?

Fry: Yes. We had a sort of preliminary interview and now I have to go back and get into the nitty-gritty with him. I don't know whether he will talk about it.

Kuchel: Well, I wish he would. My relations with Bill have always been good. I voted entirely different from him, as you must know, in the Senate, but Bill has always treated me decently and respected my right to make up my own mind.

Fry: Yes, I think he was fairly loyal to Warren. But what were the difficult moral judgments that Warren had to make?

Kuchel: Well, you have to ask him.

Fry: Were you present when the California delegation met to decide how they were going to stand on seating the Texas or Georgia delegations, which were simultaneous decisions?

Kuchel: No, I wasn't.

Fry: This would have been a difficult consideration for Warren too. At that time, you see, the more support that could have been thrown to Taft, the more chance there would have been for a deadlock so that Warren would have had a chance.

Kuchel: I know another name that I want you to put down--that's Tom Mellon. Tom Mellon is the salt of the earth. He is the chief administrative officer of San Francisco.

Fry: I have talked to Mr. Mellon.

Kuchel: Have you?

Fry: Yes. He was one of our best sources on this great train ride.

Kuchel: He would have a recollection of all that.

Fry: But I didn't have it from your point of view.

Kuchel: But you see, I wasn't on that train.

William Knowland's Role

Fry: I mean at the convention. You mentioned before that Knowland, probably in the last hours when Taft was trying to collect more support, was offered the vice presidency and probably turned it down.

Kuchel: Yes. I have heard that.

Fry: I thought I would try to get Knowland to tell me about this.

Kuchel: Again, my source is hearsay, but I believe it. But I don't think that is all of the story. Yes. I wish Bill would, just for posterity's sake, talk to you about it.

Fry: Then after Eisenhower had won the balloting they wanted Knowland to nominate Nixon.

Kuchel: Didn't he?

Fry: Yes, he did.

Kuchel: But that is another question entirely. I don't think that presents any questions of political drama. The die was already cast. Warren didn't want to be vice president. So it didn't make any difference.

Fry: In the general way the convention was run, do you have any recollections about the way the Taft forces were organized and how they functioned as opposed to Eisenhower's backers? I have gotten so much information that the Taft forces were more stringently organized.

Kuchel: I think that's true. I remember attending the meetings of our delegation, and Bob Taft came over to talk to us. It runs in my mind, Taft's organization was far better.

Fry: Were you with Warren after Eisenhower won the ballot? I wondered if you could give us any information about his reactions?

Kuchel: No, I wasn't. And I don't know that anyone from our delegation was. He maintained a contact with Billy Knowland as chairman, but he stayed in his hotel suite.

Fry: Well, speaking of Knowland, you and he had been in the legislature together.

Kuchel: That's right.

Fry: Were his stands closer to yours at that time?

Kuchel: I don't remember the positions he took on the issues of those days. I don't think that would furnish any basis for comparison or contrast. I do think Bill, in the Senate, moved perhaps imperceptibly to a conservatism as the years went by.

Fry: Well, I have the impression that probably if Warren had been out of the picture entirely, that if Knowland had a choice to make between Eisenhower and Taft, he would have been a Taft man. Do you remember feeling that at the time? Because if so, I thought I might try to pursue this when I talk to him.

Kuchel: Well, let's see, when was Knowland appointed? In 1946. In those days, I think Bill voted a fairly Progressive Republican line. This convention was six years later, and he was elected in 1948, so he wouldn't have come up again until 1954 right?

Fry: That's right, he wasn't up in 1952.

Kuchel: Well, yes, I kind of think he would have taken Bob Taft over Eisenhower. That's a guess. But I think he would have taken Bob Taft.

Fry: What I can't quite understand at the present is after it became clear that there wouldn't be a deadlock, how it would have hurt Warren's chances by Knowland accepting the Taft offer for vice president.

Kuchel: But it wouldn't have worked that way. If Bob Taft did offer Bill Knowland the vice presidency, it would have been before Ike was nominated.

Fry: So he would get Knowland--

Kuchel: Yes--

Fry: --on his side? But wouldn't it have had to have been contingent on Warren's <u>not</u> winning? Well, okay. This was probably a moral decision.

Kuchel: Yes, I think so. Bill Knowland will tell you. Really he is quite a guy. Some of the Republican leaders would do things that he wouldn't like, and I wouldn't like--

Fry: Well, I hope he will talk about it.

IV THE REPUBLICAN PARTY IN THE 1940s AND 50s

Fry: Let's get on through this because your time is so limited. I am going now into the Republicans in the early 40s. I will start here at the bottom since we just were talking about Knowland. Did you have the support of the Knowlands in The Oakland Tribune?

Kuchel: When I was running as state chairman? I don't think so.

Fry: Oh, really?

Kuchel: Oh, no. I told you about Kyle Palmer calling me--

Fry: Yes, and I didn't follow that up with another question. Why did he call you?

Kuchel: Because Kyle and some Republican leaders in Los Angeles didn't want me to be chairman. They wanted former Governor Frank Merriam's candidate. I have forgotten who the candidate was. You mentioned those two state senators. But at least Palmer and Knowland said, no, we don't want Kuchel. And Bill was not for me.

Warren and the Republican Party in the 1940s

Fry: Between '40 and '41, Warren was still attorney general, and I wonder if at that time the Republican Central Committee was concerned about the efforts of some groups to make him a candidate for governor for '42. If so, how did the Republican State Central Committee view him as a possibility? Did they see him as too independent, too non-partisan, or did they see here was a possibility for the Republicans to get Olson, a Democrat, out of office?

Kuchel: Well, now Olson wasn't in office, was he, in 1940?

Fry: In 1940 he was the governor.

Kuchel: Oh, he was? Well, why do they talk about Merriam in that thing that you--?

Fry: I guess Merriam was still the Republican titular head.

Kuchel: Oh, I see. Sure. I don't remember right now, talk about who would run for governor in '42. [Softly] Isn't that something. There half way around the world Hitler had enslaved Poland, and he was menacing the United Kingdom. My God, what a time. I don't remember.

Anyway, Earl Warren had an excellent reputation, no question about it.

Fry: There was a poll of the Republican U.S. Senators and Congressmen in 1944. They wanted Earl Warren as vice president. You were no longer chairman of the Republican Central Committee in 1944, but I wondered if you knew anything about why Warren did not want to be vice president? Warren only agreed to be the keynote speaker at the Republican National Convention. The question is, why?

Kuchel: Well, you see, I was in uniform.

Fry: You were out of the state at that time?

Kuchel: Sure. I was trying court martials.

Fry: Oh, they used your legal talents in the navy!

Kuchel: Finally.

Fry: And it was 1945 when you got out of the navy. All right, we will forget about that question. One other question on that 1952 convention: It is on Goodwin Knight's role, because he did not sign that petition asking Warren to be a favorite-son candidate.

Kuchel: That is strange, because he was lieutenant governor.

Fry: And he would have wanted to have been governor.

Kuchel: Yes. Poor Goodie. Is his widow still alive?

Fry: Yes.

Kuchel's Appointment to the U.S. Senate, 1952

Fry: In your appointment as Senator, M.F. Small says there were probably twenty or thirty other active aspirants to this appointment after Nixon was elected vice president.* He said that maybe some of the others were Gordon X. Richmond, maybe Victor Hansen. But before you were appointed, I wonder if it is true that you were not anxious to take the appointment?

Kuchel: That's right.

Fry: That maybe you had other aspirations, like the governorship or something like that?

Kuchel: That's right. He asked me if I was interested and I said, "No."

Fry: You wanted to run for governor?

Kuchel: Well, I had that in the back of my mind. And then I didn't want to live in Washington. But, in December, a month after he first asked me about taking the Senate position, he called me back. I had been searching the depths of my soul, because I thought maybe he was going to ask me again to take it. He said, "How do you feel?" And I changed my position a little bit.

I said, "I am not interested. I do not covet or want to be appointed. But if you appoint me, I will accept and I will do the very best I can."

"Well," he said," I want you to take the appointment."

I had a couple of tears, and said, "All right, I will do it."

I remember he said, kind of cute, "I am demoting you. I am appointing you Senator. Hell, you were senator once before." [Laughter]

I would never try to go back as a U.S. Senator if I ran for public office again, but I must concede it was really--now, all my life is my own; I can do what I want. I worked hard when I was in the Senate. I was a seven-day-a-week employee.

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*From a transcript of an article written by M.F. Small for The Sacramento Bee. The transcript was sent to Regional Oral History Office by Small and is now in our files.

Kuchel: Two days after I was not elected [1968], I hurried back to Washington, and instead of taking the junket around the world as most defeated politicians do, I stayed here to the very end. I think I can say why. I passed the Colorado River bill with all the safeguards in it for California. It never in God's world would have been passed subsequently. And secondly, I had authored a hundred-million-dollar redwood park bill. It was fought all the way by some Senators and some lumber companies, and that passed too.

Fry: Under you as a lame duck?

Kuchel: That's right. And then I left with a good taste in my mouth.

Fry: Well, you left with a victory. It is a wonder that redwood park bill passed.

Kuchel: Never would again.

Fry: I remember you mentioned you had a very dramatic confrontation--was it in Crescent City?--with anti-park people who came up for a big public meeting in the middle of the town. I was in a nearby town that weekend, and I thought you were going to be lynched. [Laughter] There were so many ways the bill could have lost.

Kuchel: It never again would have passed. The average time I get on a plane in California, somebody will come up to me, after the martinis have been served, and say, "I wish you were back in the Senate again." And that makes me feel good.

[end tape 3, side 2]
[end interview]

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